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Robinson, Charles, Governor

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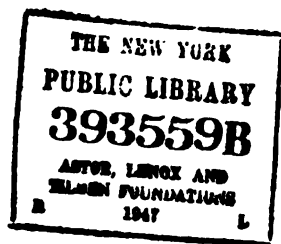
PROCEEDINGS
IN THE
CASES
OF THE
IMPEACHMENT
OF
CHARLES ROBINSON, GOVERNOR; JOHN W. ROBINSON, SECRETARY OF STATE; GEORGE S. HILLYER, AUDITOR OF STATE, OF KANSAS.

PUBLISHED BY AUTHORITY.

29

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1862.



P R O C E E D I N G S

I N T H E

H O U S E O F R E P R E S E N T A T I V E S,

In the House of Representatives on January 30th, 1862, Mr. Anderson offered the following resolution :

"WHEREAS, It appears from the reports of the Auditor and Treasurer of State, that a certain amount of the bonds of the State have been disposed of; and whereas, said reports do not fully set forth a detailed statement of the facts in relation thereto; therefore

"Resolved, That a special committee of five be appointed by the Chair to examine and investigate the accounts of the Auditor and Treasurer of State, and to ascertain all the facts connected with the sale of the bonds of the State of Kansas, the disposition of the proceeds thereof, what amount of scrip there has been issued, what amount redeemed, and what amount has been bonded, what amount of bonds are remaining on hand and unsold, and whether or not State officers have been speculating in the indebtedness of the State of Kansas, with full power and authority to send for persons and papers, with instructions to report at an early day."

Mr. Thoman offered the following amendment which was accepted : "By what authority the Treasurer of this State, receives \$12,400 for \$31,000 of War Bonds, when the law authorized only the issue of \$20,000 of bonds for war purposes."

Resolution as amended was adopted.

On the next day the Speaker appointed, as the above committee, Messrs. Anderson, Carney, Clark, 8th District; Hartley and Jones, 14th District.

On the 13th of February Mr. Anderson, from said committee, made the following report :

REPORT OF THE SPECIAL COMMITTEE

APPOINTED BY THE HOUSE OF REPRESENTATIVES TO INVESTIGATE
THE ACCOUNTS OF THE AUDITOR AND TREASURER OF STATE,
THE SALE OF BONDS OF THE STATE OF KANSAS, &c., &c.;
JANUARY 30, 1862.

The Special Committee to whom was entrusted the duty of investigating the sale of Kansas State Bonds, and the Accounts of the State Auditor and Treasurer, beg leave to submit the following report:

On Thursday, the 30th day of January, 1862, the House of Representatives adopted the following Preamble and Resolution, from which your Committee derive their authority, to wit :

"WHEREAS, It appears from the reports of the Auditor and Treasurer of State, that a certain amount of the Bonds of the State have been disposed of; and, whereas, said reports do not fully set forth a detailed statement of the facts in relation thereto; therefore,

"Resolved, That a Special Committee of five be appointed by the Chair to examine and investigate the accounts of the Auditor and Treasurer of State, and to ascertain all the facts connected with the sale of Bonds of the State of Kansas, the disposition of the proceeds thereof, what amount of scrip there has been issued, what amount redeemed, and what amount has been bonded, what amount of bonds are remaining on hand and unsold, and whether or not State officers have been speculating in the indebtedness of the State of Kansas, with full power and authority to send for persons and papers, with instructions to report at an early day."

Before proceeding to call testimony touching the subject matter of investigation, it was deemed best to make a careful examination of the different Statutes of the State in relation thereto. They find that an act was passed by the last Legislature and approved May 3d, 1861, authorizing certain persons, to wit: Austin M. Clark and James C. Stone, to negotiate the sale of one hundred and fifty thousand dollars of the Bonds of the State, and report to the Legislature, within seventy days, their acts in the premises. By reference

to the Journals of the last Session, and on page 382, it will be seen that they did report that any attempt at that time to negotiate the sale of Kansas Bonds, would be utterly useless and unavailing. After receiving the report of said Commissioners, an act was passed the Legislature, and approved June 7th, 1861, supplementary to the first named act, authorising the sale of one hundred thousand dollars of the Bonds of the State, for not less than seventy cents on the dollar. This act gives authority to the Governor, Secretary of State, and Auditor, to negotiate the sale of these Bonds, a majority of whom can act. This law provides that the Treasurer shall prepare Bonds to the amount of one hundred thousand dollars, with coupons attached, bearing interest at the rate of seven per cent. per annum, and to be made payable in fifteen years. The interest to be paid semi-annually.

Another act was passed by said Legislature, which was approved June 7th, 1861, providing for the issuance of twenty thousand dollars of the Bonds of the State, bearing ten per cent. interest, and made payable in two years.

These are the only acts that your Committee have been able to find bearing upon the matter of the sale of Kansas State Bonds.

With regard to Bonds issued by the State during the year 1861, under the acts referred to, your Committee would state that the total issue of Bonds of every description amounted to \$189,400. Of these, \$40,000 were ten per cent. Bonds, issued under the act of May 7th, and known as War Bonds. Thirty-one thousand dollars of these ten per cent. Bonds have been sold by the Treasurer to R. S. Stevens, for forty cents on the dollar; the balance are in the Treasurer's hands. It appears, on evidence before us, that a large portion of these Bonds (\$26,000) were sold by Mr. Stevens to the Interior Department at Washington for ninety-five cents on the dollar. Of the seven per cent. Bonds, \$62,200 were used in taking up State scrip, and \$87,200 were delivered to R. S. Stevens, for which sixty cents on the dollar was to be accounted for by him to the State. It appears, from evidence before us, that these Bonds were sold to the Interior Department at Washington for eighty-five cents on the dollar. The evidence before your Committee regarding the sale of Bonds is quite lengthy, and will be placed before your body in printed form.

The conclusion arrived at by your Committee are such as to warrant them in the belief that this House will take decisive measures, and deeming a fair and full examination of all the evidence

proper in the premises, would commend it to the attention of the House.

Of the \$40,000 issued under the act of May 7th, your Committee are clearly of the opinion that \$20,000 are illegal, and the House should take some action regarding them.

Your Committee also are clearly of the opinion that the Treasurer had no authority to sell any of the ten per cent. Bonds at less than par, and is liable to the State for the face of all ten per cent. Bonds sold, and of which \$12,400 have been paid into the Treasury, leaving a deficiency on Bonds sold, to be accounted for, of \$18,600.

Of the seven per cent. Bonds sold, your Committee would call attention to the fact that they are sold by Mr. Stevens as State Agent, he deriving his authority from the State officers authorized by law to sell these Bonds. It appears, on evidence, that he was authorized by them to have all he could realize over sixty cents on the dollar. Your Committee are of the opinion that the State officers are not authorized by law to make any such agreement, and believe Mr. Stevens liable to the State for all Bonds sold by him, *for the full amount for which he negotiated the Bonds, viz: eighty-five cents on the dollar.* An unlawful act cannot be rendered lawful by any sanction given it by State officers, in the opinion of your Committee. We would further state that, from the evidence before us, it appears that the \$87,200 of seven per cent. Bonds were not negotiated with the Interior Department until after the semi-annual interest had matured, the Bonds having been issued on July 1st, 1861, and negotiated on or about January 1st, 1862. This interest, amounting to \$3,052, it appears upon evidence, has been paid to R. S. Stevens, and thus the State has realized on Bonds sold but fifty-six and a half cents on the dollar. Your Committee are of the opinion that this interest properly belongs to the State.

We would further state, that of the \$87,200 of Bonds placed in the hands of R. S. Stevens, it appears upon evidence that he has accounted to the State for \$56,200, at sixty cents on the dollar, by the payment into the treasury of \$33,720—the balance of the Bonds (\$31,000) being negotiated with but not paid for by the Interior Department at Washington. Your Committee would recommend that an act be at once created, appointing an Agent to go to Washington to take charge of this property, with full power to transact all further business necessary in the matter on behalf of the State.

Your Committee call special attention to the extracts from letters, and the receipts, copies of contract, and appointment, accompanying the evidence.

In reference to the State Treasurer, the Committee ask time to take further testimony, which, in their opinion, is necessary to a proper disposal of the case.

From the evidence which your Committee submit with this report, they are of the opinion that there has been a collusion of Charles Robins on, George S. Hillyer and John W. Robinson, with R. S. Stevens, to defraud the State of Kansas of a large sum of money.

Your Committee therefore unanimously report the following resolution, and recommend its adoption, as a measure demanded by public justice and a proper regard for the rights of the people of Kansas.

Resolved, That Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of the State of Kansas, be and they are hereby impeached of high misdemeanors in office.

MARTIN ANDERSON, *Chairman*.
H. L. JONES,
B. W. HARTLEY,
THOMAS CARNEY,
SIDNEY CLARKE.

STATE OF KANSAS, EXECUTIVE OFFICE, }
Topeka, January 29, 1862.

To the House of Representatives :

GENTLEMEN: I have the honor herewith to transmit the report of the Auditor of State, and his answer to House resolution relating to the sale of State Bonds.

Very respectfully,

C. ROBINSON.

AUDITOR'S OFFICE, }
Topeka, January 27, 1862. }

Gov. C. ROBINSON:

SIR: In reply to the resolutions adopted by the House of Representatives the 20th inst., calling upon you for information as to the sale of one hundred and fifty thousand dollars of State bonds of the State of Kansas, authorized to be issued by act of May 3d, 1861, and an act supplementary thereto, approved June 3d, 1861, I have the honor to state as follows. Sixty-two thousand two hundred dollars of the bonds were issued to various persons in taking up and redeeming State scrip held by them, leaving a balance of bonds

unsold of \$87,800. Under an act approved May 8d, 1861, Messrs. Clark and Stone were authorized to negotiate said bonds, and after much effort were unable to do so, not succeeding in getting an offer.

The Governor, Secretary of State, and Auditor were then constituted a board, with authority to dispose of the same.

This board used every effort to effect a sale, but could find no purchaser.

Parties who had funded their State scrip, owing to the depressed state of the finances of the country, in order to raise money were compelled to sell, and were offering and selling their bonds at prices averaging about forty cents on the dollar; thus establishing prices beyond which the State could not easily realize for the bonds undisposed of. The importance of the selling of the residue of the State bonds must be apparent to every mind, in view of the sinking credit of the State.

The Secretary of State and myself went East last fall, and sought in vain to find purchasers in any financial community. We then proposed to R. S. Stevens, Esq., to undertake their sale as an agent. This he at last consented to do, provided he could receive all he could obtain over sixty cents on the dollar. To this we agreed, and entered into a contract accordingly. After great effort and much delay, Mr. Stevens succeeded in making a sale of \$87,200 of bonds—\$50,000 of the denomination of \$500 each; \$37,200 of the denomination of \$100 each. He has paid into the State treasury \$30,000 in cash; the balance, something over \$20,000, is on deposit in New York, and will be paid into the State treasury as called for.

Respectfully yours,

GEO. S. HILLYER,

Auditor of State.

JOHN W. ROBINSON, *Secretary of State.*

George S. Hillyer being sworn and examined, says:

Q. What office do you hold in the State of Kansas?

A. State Auditor.

Q. What is the total amount of warrants drawn by you on the Treasurer, during the year A. D. 1861?

A. Sixty-six thousand dollars—perhaps a little over.

Q. What is the total amount of bonds issued by the State of Kansas, during the year A. D. 1861?

A. One hundred and eighty-nine thousand four hundred dollars.

Q. What amount of bonds were issued under the act of the legislature authorizing the negotiation of one hundred and fifty thousand dollars of bonds to defray current expenses of the State, approved May 1st, 1861?

A. Fifty thousand dollars.

Q. What amount of bonds were issued under an act supplemental to said act, and approved June 5th, 1861?

A. Ninety-nine thousand four hundred dollars.

Q. What amount of bonds were issued under the act authorizing the State to borrow twenty thousand dollars to repel invasion, &c., approved May 7th, 1861?

A. Forty thousand dollars.

Q. What amount of State bonds, of every description, were negotiated by the State during the year 1861?

A. One hundred and eighty thousand four hundred dollars.

Q. What amount of bonds issued under the act of May 3d, 1861, were negotiated?

A. Fifty thousand dollars.

Q. What amount of the bonds, issued under the supplemental act of June 5th, 1861, were negotiated?

A. Ninety-nine thousand four hundred dollars.

Q. What amount of the war bonds were negotiated?

A. Thirty-one thousand dollars.

Q. By whom were bonds issued under the act of May 3d, 1861, negotiated where, and with whom?

A. By myself and Secretary of State at Washington, to R. S. Stevens.

Q. By whom were the bonds issued under the supplemental act, approved June 5th, negotiated where, and to whom?

A. Sixty-two thousand two hundred were sold in taking up outstanding warrants. Thirty-seven thousand two hundred dollars were sold by myself and the Secretary of State, at Washington, to R. S. Stevens.

Q. By whom were the bonds issued under the act authorizing the State to borrow twenty thousand dollars to repel invasion, and approved May 7th, 1861, sold where, and to whom?

A. Sold by the Treasurer, can't state when, to R. S. Stevens.

Q. For what amount on the dollar were the bonds issued under the act of May 3d, negotiated?

A. Sixty cents on the dollar.

Q. For what amount on the dollar were the bonds issued under the supplemental act of June 5th, negotiated?

A. Same price.

Q. For what amount on the dollar was the bonds issued under the act authorizing the State to borrow twenty thousand dollars, &c., negotiated?

A. Forty cents on the dollar.

Q. What amount of scrip has been redeemed by State bonds?

A. Forty-three thousand five hundred and forty dollars.

Q. Was an appropriation of one thousand dollars for stationery made by the legislature, bonded?

A. It was. The bonds were issued to the Secretary of State.

Q. At what time were the bonds issued?

A. Some time in September or the first of October. They were issued by the Treasurer in my absence. They were bonds which I

had previously countersigned. I had not issued warrants at the time the bonds were issued.

Q. Were there any vouchers filed in your office at the time the bonds were issued?

A. There were none. They were issued upon the word of the Secretary that he needed the money to meet expenditures for stationery, &c. I have never seen the bills of the expenditure. The Secretary has stated that he had the bills, with one exception, which bill he would send to Chicago and procure.

Q. Has the Secretary ever filed any original bills of any description in your office?

A. I think he has not.

Q. Does the Secretary draw an appropriation for expenses on his own statement of bill of expenses?

A. He does.

Q. Has he always drawn the full amount of every appropriation?

A. He has.

R. S. Stevens was appointed agent to sell Kansas State bonds by the Governor, Secretary of State, and myself. He received the appointment in October.

Q. When you made the arrangement with Stevens, did you expect to go to Washington?

A. I think the Secretary and Governor did not intend to go; I did.

Q. At whose solicitation was Stevens appointed agent?

A. It was upon consultation of myself, Secretary and Governor. Before receiving his appointment, Mr. Stevens proposed to buy the bonds. He proposed to buy fifty thousand dollars at forty cents—those issued under act of May 3d—and twenty or twenty-five thousand of those under the supplemental act, at seventy cents. When Mr. Stevens was appointed agent, it was the understanding that I should go on to Washington with him. I had understood there was an Indian trust fund at Washington that was to be invested in State bonds. I took with me, when I went to Washington, besides the State bonds, fourteen for myself, ten for Mr. Weir, two for Mr. Dutton, and, I think, four for Mr. Griffith. These bonds were each one hundred dollars. The Secretary left here for Chicago the day before I left for Washington. He arrived in Washington from Chicago some four or five days after I did.

Q. Did yourself and the Secretary make any attempt to negotiate these bonds?

A. We did not—any direct attempt. Mr. Stevens arrived in Washington about the 20th of November. We made an arrangement with Stevens on or about the 3d of December. The agreement was that he should take the bonds, and, when sold, account to the State for sixty cents on the dollar. The bonds were delivered to him as he sold them; he gave no security for them.

Q. Did you know, when you made the agreement with Mr. Stevens, what he was going to do with the bonds?

A. I supposed he was going to negotiate them with the Interior Department. There was no agreement that if the bonds should be

sold for more than sixty cents the State should receive amount over sixty cents.

Q. For what amount of these bonds did Mr. Stevens account to the State?

A. Eighty-seven thousand two hundred dollars.

Q. Do you know the price at which these bonds were sold to the Department?

A. I do not. Mr. Stevens was to receive as his compensation all over sixty cents on the dollar. The reason we sold these bonds to Mr. Stevens was, we considered it the last and only chance to effect a sale. Mr. Stevens had a large amount of bonds of his own he wished to negotiate, and had been looking to this Indian fund for a long time. I therefore supposed he would oppose the negotiation of the State bonds through any other hands than his own. Mr. Stevens seemed to have this whole matter in his own hands and under his control, so that the negotiation could not be effected through any other person. The Governor gave to the Secretary verbal authority to sign his name to any paper that might be necessary in effecting the negotiation. We made this sale of bonds to Mr. Stevens with the advice of Senator Pomeroy, who stated that it was the best that could be done—that if we did not sell them now we never would. I advised with Senator Pomeroy at every step of the proceedings. Mr. Pomeroy seemed very anxious the sale should be made. Mr. Pomeroy never offered to assist us in the negotiation of these bonds, except through Mr. Stevens. It was Mr. Stevens' proposition to take the bonds at sixty cents. He would give no more. We could do no better. The cost to the State for the negotiation of these bonds, besides the per cent. made by Stevens, was about three hundred and fifty dollars—expenses of Secretary and myself to and from Washington.

GEORGE S. HILLYER.

George S. Hillyer recalled:

I delivered to Mr. Stevens fourteen hundred dollars in bonds of my own, which he sold, and returned to me sixty cents on the dollar. I had no personal interest in the sale, other than derived from the sale of my own bonds.

Q. Do you know whether Mr. Stevens had any partner in the sale?

A. I do not. He intimated to me that he had to interest other parties, I do not know who.

Q. Do you know of any person who shared any of the profits of the sale, excepting Mr. Stevens?

A. I do not. I took with me, of private bonds, fourteen hundred dollars for myself, one thousand dollars for Mr. Weir, and two hundred dollars for Mr. Dutton. I returned to Mr. Weir sixty cents on the dollar, the same that Mr. Stevens returned to me. Mr. Stevens settled with Mr. Dutton himself, I suppose. Mr. Lane objected to the payment of the money into Stevens' hands. An arrangement was finally made for the payment of the money into the hands of S. C. Pomeroy. I think an order for such payment

of the money was signed by Pomeroy, Lane and Conway. The order or letter was directed to Caleb B. Smith, recommending the money to be paid to Pomeroy, and sent to Kansas as Pomeroy and Conway should direct.

GEORGE S. HILLYER.

Correction, by Mr. Hillyer, of the evidence given before the Committee.

I am mistaken in my statement that Mr. Stevens returned to me but sixty cents on private bonds, which I put into the sale. I received seventy cents on the dollar, and am indebted to Mr. Wier for ten cents on the dollar for one thousand dollars.

GEORGE S. HILLYER.

John W. Robinson being duly sworn, says:

Q. Did you ever act in your official capacity as Secretary of State in conjunction with any other persons in negotiating any of the State bonds of Kansas?

A. I did.

Q. With whom?

A. The Auditor and Governor of State.

Q. Where and with whom did you negotiate said bonds?

A. At Washington with R. S. Stevens.

Q. What amount of bonds were negotiated by the Governor, Mr. Hillyer, and yourself?

A. Fifty thousand dollars of the act May 1st, 1861, and thirty-seven thousand dollars of the supplemental.

Q. At what price were said bonds negotiated?

A. Sixty cents.

Q. When was said negotiation effected?

A. About the last of December, 1861.

Q. Did you ever enter into any agreement or contract with any third party to sell any of the State bonds?

A. Yes.

Q. Will you state the nature of said agreement or contract?

A. Mr. Stevens was made the agent of the State and was to have all he could realize at the sum of sixty cents on the dollar.

It was a written contract, signed by Mr. Hillyer and myself, and I think the Governor's name was attached, but am not certain. He stated to Mr. Hillyer and myself that, if sixty cents could be realized, he would agree to any arrangement to make such sale. The board of State officers, some time in the summer, agreed to receive forty cents, supposing they had an offer from some parties in New York to that amount, but they afterwards refused to take any.

Q. Did you make any direct attempt to negotiate the bonds with the Department?

A. We did not. When I arrived in Wahsington, Gen. Pomeroy informed me that Mr. Dole would not take the State bonds, advised me not to attempt the sale.

Q. Had the board authorized any one to sell these bonds before you went to Washington?

A. I think they had; the understanding was that Hillyer was to go to Washington with Stevens. I think there was no written arrangement till we got to Washington. Stevens was appointed at his own suggestion. Senator Pomeroy advised us to contract with Stevens; he assisted Stevens in the negotiation of the bonds.

The President at first objected to the negotiation, afterwards consented. Mr. Stevens sold some bonds for me; he returned me seventy cents on the dollar for about one thousand dollars. The bonds were for back salary and money due me from the State. There was no difference in the bonds upon which Mr. Stevens returned me seventy cents and those upon which he returned sixty cents. Mr. Stevens appeared better acquainted with the different departments at Washington than any one else who could aid us in the sale. I think Stevens could operate through the parties necessary to the negotiation, better than ourselves, aided by Senator Pomeroy, Conway and Lane. The parties to be operated through were the Indian Commissioner, Secretary of the Interior and President.

I think if we had not sold the bonds to Mr. Stevens they would not have been sold. Mr. Stevens took the bonds, negotiated them, brought the money to Kansas, and paid it into the Treasury. I have never had any of the money paid into my hands.

Q. Do you know what Mr. Stevens received for these bonds?

A. I do not know what Mr. Stevens received for these bonds.

Q. Had these bonds been bearing interest any length of time?

A. These bonds had been on interest six months. The State received sixty cents on the face. I think they were all dated July 1st, 1861.

JOHN W. ROBINSON.

D. H. Weir being duly sworn and examined, says:

I have been clerk in the Secretary of State's office since the organization of the State government, to within two days.

I understood, some time in September last, that an arrangement could be made in Washington, through a third party, to sell bonds to the Indian Department. I received this information from the Secretary. He borrowed what bonds he could; drew what scrip he could get; got it bonded; and sent the amount—about four thousand dollars—on to Washington. They were sent, I think, about the 1st.

of October. Some time in October, a letter was received by the Secretary (so he stated to me) that a large amount could be sold, and that it was necessary that they should all be there by the first of November, 1861.

The understanding was, between the Auditor and Secretary, before the Secretary left, that he should telegraph from Quincy that the bonds should be in Washington by the 2d of November. The Secretary's bonds were sent to Mr. Pomeroy. Mr. Pomeroy wrote the letter giving the information that the bonds could be sold, so the Secretary informed me.

I understood, from the Secretary, that the bonds would not be sold for less than seventy cents on the dollar, and perhaps a larger price would be realized. From a memorandum, in the Secretary's desk, on which was computed the amount of bonds at eighty-two cents, and bonds at sixty cents, I inferred that eighty-two cents was the price received. The Auditor was so confident the bonds could be sold, that he advised me not to bond my scrip, as there would be money to redeem it. I knew, from the letters which I received from him, that Secretary Robinson was one of the parties who negotiated the bonds with the Interior Department.

D. H. WEIR.

Copies of letters from J. W. Robinson to D. H. Weir.

WASHINGTON, Dec. 8th, 1861.

FRIEND WEIR—

Strange to say, I am still in this city, and when I am to leave the Lord only knows.

We are at work as hard as is possible, for the interests of the State; and if we succeed we shall put Kansas upon good footing; if not, Heaven knows what will become of her—I do not! We want nothing said there about bonds at all—not a word. I was indiscreet enough to mention Pomeroy's name to one or two whom I supposed I could trust, telling them not to let him know that I had said a word, and forthwith half a dozen start up and send him bonds as a private agent. He cannot but know the information comes from me, when he has sworn to keep his name entirely away from the name of bonds.

The bonds you sent are in Stevens' hand, I think; at any rate, Pomeroy has sent them to some Kansas man, and I believe it is him.

We have been steadily at work ever since we came, and have accomplished a good deal; but we have one very important obstacle to overcome yet, and it depends entirely upon this whether we succeed. I am not very sanguine myself, and yet it is life or death with Kansas. If bonds are not now sold, they never will be sold, or not for a long time to come. * * * *

Keep entirely "mum" about the *bonds*. Do not say a word to any person alive, not even to your wife; for we want it as secret as it can be till it is fixed.

Yours very truly,

J. W. ROBINSON.

D. H. WEIR, Esq.

WASHINGTON, Dec. 10, 1861.

MY DEAR WEIR—

A day or two since I wrote you a line, but fearing you may not receive it I repeat it now.

It is a matter of uncertainty what day I may be able to start for the land of my adoption, but I hope it may be as soon as the first of next week, to-day being Wednesday. The whole of this government machinery moves so terribly slow that no man can ever say, with even tolerable certainty, how long he may be detained by it. I had no idea when I arrived in this city that I should spend more than four days at the longest, and here I have been four weeks and more; and had not the interests of Kansas been jeopardized I should have left long ago; but we have waited and waited, and worked and worked, till I have become tired and worn out. We hope to succeed.

We have removed obstacle after obstacle, and at last we have unexpectedly run against the President himself; and now are at work trying to overcome his objections. I hope we may succeed, but the Supreme Ruler only knows what other things may present themselves when this is done. If we do succeed Kansas will be placed upon tolerable decent footing; if not, God only knows what will become of her, or how she will get along. There is no other prospect of disposing of bonds *anywhere* else in the Union. The money market is closed up; no stocks but these of the Union are touched or looked at.

Don't buy any more bonds, unless you want to be bitten. And, as I said in my former letter, keep "mum entirely" about bonds. Say nothing to nobody.

Pomeroy is quite indignant to think that somebody must have used his name in connection with the Kansas bonds, and sent him, and attempted to make a broker of him. He has not said much to me about it, but I hear it from others. So I want you to be very careful, indeed, what you say, and especially say nothing about bonds in connection with Washington or any of the State officers.

* * * * *

Yours very truly,

J. W. ROBINSON.

D. H. WEIR, Esq.

WASHINGTON, Dec. 18, 1861.

FRIEND WEIR—

* * * We have encountered everything but death here in trying to negotiate our bonds. We have altered proposition after proposition, and met with obstacle after obstacle, until I have been discouraged, disgusted and thoroughly mad. The last one is Jim Lane, an enemy of Stevens, and, of course, would let his duty to the State run into the ground if he could gratify his personal hatred. I am still in hopes that we may be fortunate enough to effect a negotiation. * * *

I had an interview with Mr. Lincoln night before last in his private parlor; and he seemed desirous to do all he could, and promised to order the negotiation made if it was not seriously opposed by any of his Cabinet, or the people of our State. We shall try to conciliate Lane any way, and if we fail he must take the responsibility.

There are one thousand dollars of your bonds. We shall have them put into the sale if made at all at whatever the State (or we) get for ours, of course; but we shall get the seventy cents, as I had hoped, before leaving. We may possibly put in the whole lot at sixty cents, but it will never hurt the State a dime, or will ever heard of, but I shall thank God. * * * "Keep still."

Yours, etc.,

J. W. R.

H. R. Dutton being duly sworn and examined, says:

I am Treasurer of the State of Kansas.

About \$40,000 has been paid into the treasury in money during the time which I have held the office, which has been realized from the sale of State bonds; about thirty thousand dollars of this was realized from the sale of seven per cent. bonds. This money was paid into the treasury by Mr. R. S. Stevens. He made no written report to me about his transactions in the sale of bonds.

I prepared forty thousand dollars of Kansas ten per cent. bonds for sale. I sold thirty-one thousand dollars of these bonds to R. S. Stevens for forty cents on the dollar. The full amount of said sale was paid into the treasury. I never used any of the bonds in payment of any State indebtedness. I never received any proposition to use any of these bonds in payment for State indebtedness. Mr. Collamore wished to take the bonds and negotiate them; I referred him to the law authorizing me to sell the bonds. He stated to me, or the Governor, that he would take from four to five thousand dollars of those bonds at par. I have them now ready for him. I told him I would retain them from the sale if I made one, and I did so. I attempted the sale of

the bonds to A. M. Clark, of Leavenworth, and to James C. Stone. I also attempted to sell them to Joseph Mann, of Pennsylvania. I was in New York about the time of the battle of Bull Run, and was told it would be impossible to sell them. I did not make the attempt. I do not remember whether Mr. Stevens proposed to buy first or I to sell; the matter was talked over between us. He asked me what I expected to get for the bonds. He said he did not think the bonds were worth as much as the seven per cent. fifteen year bonds. He told me after I had been to New York and seen what I could do, that he would give me forty cents. The bonds were sold him about the last of July. They were issued about the last of June or first of July. I delivered the bonds to him at Buffalo, in New York, and I took his receipt. I was on my way home and he told me he was going to Washington. He paid me for the bonds when he reached home. I also gave him twenty-nine thousand dollars of seven per cent. bonds and took his receipt for them to be returned or sold at seventy cents. The bonds were not returned to me. He came back, and I was informed by the Auditor and Secretary of State that they had made an arrangement for the sale of the bonds and I took an additional receipt for fifty-three thousand four hundred dollars, five thousand dollars being retained by the Auditor to redeem scrip. Mr. Hillyer told me that they had agreed with Mr. Stevens to take fifty thousand dollars of bonds at forty cents, and the balance, about thirty-seven thousands dollars, at seventy cents, at the time this receipt was given. Mr. Hillyer told me after he came back from Washington, that Mr. Stevens was agent for the State to sell the bonds. I receipted to him for money paid into the treasury. I have paid the semi-annual interest on fifty thousand dollars of the seven per cent. bonds for which Mr. Stevens receipted. I paid it to Mr. Stevens. I have made arrangements to pay the interest on all the bonds of the State at the Ocean Bank, New York City. Robert Morrow's warrants, issued in payment for supplies furnished to the Quarter Master General of Kansas, were paid in money to Stevens. I sent two hundred dollars in bonds by Mr. Hillyer to Washington to sell. Mr. Hillyer told me he gave them to Stevens, I asked Mr. Stevens about them and he told me he would return me sixty cents on the dollar.

H. R. DUTTON.

H. R. Dutton recalled.

Q. Is the Governor's signature attached to forty thousand dollars of ten per cent. bonds issued under the act of June 5th.

A. It is. The seal of the State was attached to the whole issue.

Q. Have you ever received as a gift, donation, payment for services, or for any other purpose, or in any other manner, any sum or sums of money or other thing of value from Robert S. Stevens, since the 1st of July, 1861, up to the present time?

A. I have not. I had authority in July last from the Auditor and Secretary of State, to sell the twenty-nine thousand dollars of

bonds at seventy cents on the dollar, which I delivered to R. S. Stevens, at Buffalo, in July.

Q. Would you think you were authorized to pay interest on State bonds upon the presentation of coupons if you had official knowledge that said bonds from which the coupons were detached were the property of the State at the time said interest was due?

A. I would not. I had a conversation with the Auditor on his return from Washington, in which I understood that a sale had been made of the seven per cent. bonds; I asked him if the January coupons were included in the sale, and understood from him that they were.

Q. Did the Auditor or Secretary of State know that you had paid this interest to R. S. Stevens?

A. I think the Auditor was present when Stevens presented the coupons and when I receipted to him for them as so much money.

Q. Did the Auditor make any objections to the payment of this interest to Mr. Stevens?

A. He did not.

H. R. DUTTON.

Received, Buffalo, July 30th, 1861, of H. R. Dutton, Treasurer of the State of Kansas, twenty-nine thousand dollars in bonds of the State of Kansas, of the denomination of five hundred dollars each, and numbering from one to fifty-eight inclusive, which are to be sold at seventy cents on the dollar or returned.

[Copy.]

Signed,

R. S. STEVENS.

Received of H. R. Dutton, State Treasurer, State bonds of the denomination of one hundred dollars each numbering from 671 to 1000 both inclusive; also of \$500 bonds numbering from 59 to 100, both inclusive.

Topeka, Oct. 19, 1861.

[Copy.]

Signed,

R. S. STEVENS.

R. S. Stevens being duly sworn and examined by the Committee, says:

My place of residence is Lawrence, Douglas county, Kansas. My business is of a general character. While I lived in Leecompton I was in the profession of law; since that time not. I entered into an arrangement with the State officers for the sale of Kansas State bonds. The Auditor and Secretary of State made the arrangement with me. The arrangement was made on or about the last of November or first of December. The arrangement was made in writing at the city of Washington. The officers alluded to were in the city of Washington with eighty-seven thousand two hundred dollars of

Kansas seventy per cent. State bonds. They proposed to me to undertake the sale of these bonds. I agreed that I would do so under certain conditions, which were, that I should receive all that I could realize over sixty cents on the dollar, paying the State therefor at the rate of sixty cents on the dollar. I considered I was acting as agent of the State officers alluded to, and thus indirectly the agent of the State. I was employed by them to sell the bonds on the terms as specified above. I sold the bonds to the Secretary of the Interior in his official capacity as trustee for certain Indian tribes, he acting under the direction of the President of the United States, or by his approval, as I am informed. The bonds were negotiated for eighty-five cents on the dollar. I negotiated for the sale of the whole amount of the bonds in the hands of the State officers alluded to. I paid into the hands of the State Treasurer, such amount as I received pay for at the rates as agreed upon, less about three thousand dollars, now in my hands, which is subject to his order at any time. I received payment in a draft on the Assistant Treasurer, of New York. These bonds had been drawing interest from July 1st, 1861. I have paid the State as above for sixty-four thousand two hundred dollars. The balance of the bonds I left with the Secretary of the Interior at the time I made the negotiation. I was to include with them some other bonds which I owned myself, and some owned by other parties. I delivered him all the bonds I had then in Washington, including the bonds of the State which he paid me therefor fifty-four thousand nine hundred and ten dollars, which paid for all the bonds I delivered to him less thirty-one thousand dollars, which I left with him and are the property of the State. The amount due the State on account of bonds sold according to agreement, and for which payment was made, was thirty-three thousand seven hundred and twenty dollars. At one time a portion of the board stated that they considered they were authorized to sell fifty thousand dollars of bonds at any price they choose to and offered them to me at forty cents on the dollar. I was authorized to act just as I did act in the disposition of these bonds by the Auditor and Secretary of State in their employment of me as their agent. I bought of the Treasurer of State about thirty thousand dollars of ten per cent. bonds, I think some time during the month of July 1861. Some of the bonds I have on hand, some I sold to one party, some to another. I sold some to the Interior Department. I received for those I sold at the Interior Department ninety-five cents on the dollar. I think I sold about twenty-six thousand dollars. I paid to the Treasurer the full amount of bonds that I bought at the time of the purchase. I paid a portion of it in cash; the balance was afterwards placed to his credit in the Lawrence bank to be paid in coin or Eastern exchange.

R. S. STEVENS.

R. S. Stevens recalled.

Q. Did you receive the semi-annual interest due on the Kansas

State bonds which was due on January 1st, 1862, or did the Secretary of the Interior receive it?

A. I received it.

Q. Had you any partner in the transaction of buying the Kansas State ten per cent. bonds or in the negotiation of the State seven per cent. bonds?

A. I had parties associated with me who shared the profits of the negotiation.

Q. Who?

A. I do not choose to state.

Q. Did any of the State officers share any of the profits growing out of the sale of Kansas bonds?

A. When I was in Washington Mr. Hillyer and Mr. Robinson put in some bonds owned by themselves, which I sold and returned them seventy cents on the dollar. Those were the only parties who were State officers, who were the parties to the sale of State bonds of any kind. If any State officer received any further interest in the matter directly or indirectly they can speak for themselves. At the time I made the negotiation with the Secretary of Interior, I included in the sale one hundred and fifty thousand dollars, stating to him that but eighty-seven thousand two hundred dollars were the property of the State, the rest having been issued to various persons in taking up and liquidating State scrip held by them, agreeing, however, if possible, to secure all the bonds thus issued and deliver the same to him. The written conditions of the agreement being that I was to deliver the balance of the bonds and on delivery be paid therefor.

Q. Did Charles Robinson share with you any of the profits arising from the sale of Kansas State bonds?

A. In reference to any parties, I prefer they should answer for themselves. The amount of bonds which Mr. Hillyer and Robinson put in, was, I think about seven thousand dollars. My impression is Robinson had about four thousand four hundred dollars. They received seventy cents on the full amount. The bonds were a portion of them sent to Washington, sometime in October. I think about fifty thousand dollars were sent previous to November 1st, 1861.

R. S. STEVENS.

Charles Robinson being sworn and examined, says:

I am Governor of the State of Kansas. I do not know whether I was or was not a party to the sale of Kansas State bonds in Washington. I do not know whether my name was used or not. I did not understand that any party was authorized to use my name officially. I will state, however, that in conversation with the

Secretary and Auditor, before they went to Washington, I told them that any arrangement for the sale of bonds that they might make according to law I would approve of. I do not know, excepting from their statements, that any arrangement or contract was made with any third party for the sale of the bonds. I have never seen any writing to that effect. They told me they authorized Mr. Stevens to sell the bonds. I took it for granted that they [Hillyer and Robinson] employed him in their official capacity. My impression is, they would have the power to employ a third party in the transaction if it was according to law. I did not authorize or recommend the sale of the bonds to Mr. Stevens. I understood from Hillyer and Robinson that they authorized Stevens to sell the bonds and have all he could get over sixty cents on the dollar. I did not approve officially of the sale. As I understood the law, I did not think I had the right to make the sale for less than seventy cents, but I believed it good policy for the State to sell them for even less than sixty cents if they could not get no more; and, in that respect, I should approve of the policy of selling them, although I could not do so officially. There was a conversation before they went away about the necessity of the sale of bonds to meet the interest due on bonds the 1st of January and for legislative purposes. It had been stated that State bonds could be invested in the Indian fund at the Interior Department. I had no official knowledge in regard to the matter. I think the information came from Senator Pomeroy. I never was a party to any arrangement to sell the bonds issued under the first act to R. S. Stevens for forty cents. I have heard Mr. Stevens say he realized for the bonds eighty-five cents on the dollar. I have no official knowledge of any of the transactions other than I have testified to. I do not think the State officers could have negotiated the bonds with the Interior Department except through Mr. Stevens.

C. ROBINSON.

Governor Robinson recalled :

Q. Do you consider that the State officers had the power to negotiate one hundred and fifty thousand dollars of bonds, issued under the act of May third?

A. I think they had the power to negotiate them, but not for less than seventy cents on the dollar.

Q. Did you attach your name officially to forty thousand dollars of ten per cent. bonds, issued in July, and known as war bonds?

A. I cannot say. I signed some war bonds. I do not know how many. It is the business of the Auditor to register war bonds. I keep no register.

Q. Did you attach the State seal to the war bonds?

A. I think not to all of them. I may have done so to a portion of them. The Secretary of State has power to use the seal, and I think attached it to most of the bonds.

Q. Have you ever received as a gift, donation, payment for services, or for any other purpose, in any manner, any sum or sums of money, or other thing of value, from R. S. Stevens, since the first day of

July up to the present time, in consideration of his negotiation of Kansas bonds?

A. I have not. I had a conversation with some of the State officers, and others, before they [Hillyer and Robinson] went to Washington, relating to the right of State officers to sell a portion or all of the seven per cent. bonds at a price less than seventy cents on the dollar. It was contended that at least fifty thousand dollars of the bonds could be sold for such price as could be agreed upon. Not having examined the law, my mind was not at that time thoroughly made up upon the subject. Afterwards, on a thorough examination of the law, and before Mr. Stevens went to Washington I came to the conclusion that I had no right to sell the bonds for less, than seventy cents, and declined, for that reason, to sign a paper authorizing a sale for a less price, presented by Mr. Stevens.

C. ROBINSON.

Wm. P. Dole being sworn and examined, says:

I reside in Washington. I am Commissioner of Indian Affairs. I am not acquainted with George S. Hillyer or John W. Robinson. I have never had any conversation with any person in Washington, except the Secretary of the Interior, about the sale of Kansas State bonds officially. The Senators may, possibly, have mentioned the subject to me. I know that State bonds of Kansas have been negotiated at Washington. They were sold to the Secretary of the Interior for the use of the interior tribes, invested in the Indian fund. I cannot say from positive knowledge at what price the bonds were sold. My impression is, the seven per cent. bonds were sold from seventy to eighty cents on the dollar; the ten per cent. bonds from ninety to ninety-five on the dollar. My impression is derived from general conversation and the papers themselves. The war bonds were sold, in my absence to the west, on or about the last of August or first of September. The State bonds were sold about the first of January, 1862. My impression is that an agent of the State offered them, and that they were negotiated through the Kansas Senator's influence. I refer now to the seven per cent. bonds. I do not know who offered the ten per cent. bonds. I do not think the Department at Washington would require an agent to show any authority from the State. The presumption is that the holder of bonds has the right to negotiate. My impression is that the Department thought that the State of Kansas was to receive the full amount for which said bonds were sold. Such impression would be given from the fact that the Kansas Senators gave an order for such money to be carried to Kansas. The negotiation for State bonds is always with the President and Secretary of the Interior. The Commissioner has no power of purchase. After the negotiation is

made the papers are filed with the Commissioner, and he draws a draft for the money. I will state, that after the Secretary had stated to me the proposition for the sale of the Kansas seven per cent. bonds to the Indian Department, requesting my opinion as to the purchase, that I addressed him a note, stating to him that my views as to the purchase of State bonds would be found in my annual report, but that if it was determined to purchase State bonds that Kansas State bonds would be a safe investment. The Secretary of the Interior, after my reply to his note, said he would not close the negotiation until the whole matter was referred to the President. The papers were referred to the President, and returned with his endorsement, directing the purchase to be made. I think the State officers could have made the same arrangements with the Interior Department, with the assistance of the Kansas Senators, that R. S. Stevens made.

WM. P. DOLE.

James H. Lane being duly sworn and examined, says :

Q. Will you please to make a statement of what you know regarding the sale of Kansas State bonds at Washington ?

A. I arrived at Washington on the morning of the first day of the session of Congress of the U. S. in time to take my seat in the Senate on the first day of the term. Shortly after my arrival, George S. Hillyer, Auditor of the State of Kansas, and John W. Robinson, Secretary of the State of Kansas, called upon me and informed me that they were there to negotiate the sale of some State bonds of Kansas to the Indian Department for trust funds belonging to the Indians to be invested by the Government for their benefit; that they had tried to sell them at several points but had failed, and unless they could sell them to the Government the State Government would have to suspend; that they could not buy stationery or pay the members of the legislature; that the State Government could not go on; that they had arranged with the Secretary of the Interior for the sale of the bonds, and that the question was then pending before the President, and desired me to go before him and make one of *my appeals* in favor of the negotiation, I advised them that it was best for the entire congressional delegation from Kansas, to go in a body, and it was arranged to go in a body, but from some cause (I suppose other engagements) they did not go, and I went by myself, and urged upon the President the necessity of the sale, on account of keeping the State Government going, and that it was a safe investment. I understood that my colleagues called upon him the same day. I learned about this time from persons in Washington from Kansas, that the money was sought to be obtained for use against my friends and myself in Kansas, and

that it would not go into the State Treasury. I saw Hillyer and Robinson frequently afterwards, before the negotiation was consummated, and asked them *as frequently* if Bob Stevens or Gov. Robinson had anything to do directly or indirectly, with the bonds, the sale of the bonds, or the proceeds of the sales. They asseverated in the most *emphatic manner*, that they had nothing whatever to do with the bonds, the sale of the bonds, or the proceeds of the bonds, except Mr. Hillyer said perhaps there might be some back salary due Robinson, which he would draw as others would on warrants. My friends still insisted that I should oppose the negotiation, and urged by them I proposed to Mr. Hillyer and Robinson, that they place the money in the hands of Gen. Pomeroy, and draw it out of Pomeroy's hands as the Legislature directed, with the exception of five thousand dollars, which they said they wanted immediately to prepare for the Legislature—telling them that I had no idea the money could be honestly kept in the State Treasury, although the Auditor and Treasurer might be ever so honest—that the harpies would manage somehow to steal the money. Afterwards, on consultation with my friends, it was thought best that I advise the Secretary of the Interior to pay for the bonds as follows: Pay five thousand dollars to Robinson and Hillyer for immediate use, and the balance in instalments as directed by the Legislature when it met. This plan I mentioned to the Secretary of the Interior, and he was willing to accede to the plan if the united congressional delegation would recommend it. In the many conversations with Hillyer and Robinson, I gave them my opinion freely of Bob Stevens' propensities, and told them frequently that I would not have anything to do with the negotiation, if Rob Stevens was to handle the money or see the money, or know where they kept the money. Mr. Hillyer pledged himself to me in the most *unequivocal terms*, that *he himself* would convey the money to Topeka, and deposit it in the Treasury, and see that it did not go out except upon duly authorized warrants; and that the money would not go to pay old debts, but to pay the members of the Legislature. After the negotiation was arranged, Hillyer and Robinson came to me one morning (with Stevens behind them,) and asked me to sign a paper, which was a paper required by the President from the united congressional delegation, recommending that the investment be made. I was intensely angry, and told Hillyer and Robinson, that unless they could come to me without the company of a thief like Bob Stevens, that I would have nothing to do with them or their negotiation. They went away—afterwards Hillyer and Robinson came alone and I signed the paper, and the purchase was consummated. But for the asseverations of Hillyer and Robinson, that Gov. Robinson and Stevens had nothing to do with the transaction, I should have opposed the arrangement, and it could not have been made without the delegation acting as a unit. The change was made from the instalment plan to the plan of paying over all the money upon the pledge of Hillyer and Robinson that Hillyer would bring the money out to Kansas and safely hold it, to be disposed of by the Legislature, excepting so much as was necessary for stationery,

and preparation for the Legislature. My understanding was that the Commissioner of Indian affairs, Mr. Dole, had expressed an opinion adverse to the purchase before my arrival in Washington, and was in no wise connected with it. Mr. Smith, the Secretary of the Interior, was of the opinion that the interest of the Government would be best subserved, by a sale of all of the seven per cent. bonds to the Interior Department, and this negotiation was intended to include them all. Hillyer and Robinson negotiated the bonds directly with the department, through the congressional delegation. So far as I am concerned, had I known that Gov. Robinson, or Bob Stevens had anything whatever to do with the negotiation, or proceeds, or any part thereof, I would have opposed it with all the energy of my nature.

Q. Do you know at what price the bonds were sold to the Interior department?

A. I know nothing about the price but what I learned from Hillyer and Robinson, that they had sold them for two cents more than the minimum price, which would make the price seventy-two cents.

JAS. H. LANE.

Robert Morrow being sworn and examined, says:

I reside in Lawrence. Am interested in the Lawrence Bank. I am at this time nominally President of the Bank, but disposed of my interest sometime in the fall, to R. S. Stevens. The Directors of the Lawrence Bank are James Blood, T. B. Eldridge, Mr. Stevens, Governor Robinson and myself. The Directors are principally the stockholders. The issues of said Bank are secured by the State bonds of Kansas. They were made so on the first of last July.

Q. Did your bank buy any war bonds of the State of Kansas, or any of the officers?

A. Myself, individually, bought some two or three thousand dollars, in payment of bill of provisions furnished the Quarter Master General of the State of Kansas, at seventy cents on the dollar. The Quarter Master General certified to my bill, and I sent it to the Auditor, who issued warrants for the amount, and I received the bonds at seventy cents on the dollar.

Q. Did any parties connected with the bank, beside yourself, buy any of the war bonds?

A. Mr. Stevens has told me that he bought all, or nearly all that the act provided for. The bonds which I bought were put into the bank as securities. Mr. Stevens put into the bank bonds, as security, I do not know what amount. Governor Robinson has put in bonds as security. I do not know to what amount. The bonds which the Governor put in, were seven per cent. bonds. The total amount of

bonds in bank as securities, is about \$20,000. I think there are no ten per cent. bonds as securities in the bank but my own. Mr. Dutton has an account at the Lawrence Bank. He gives drafts on our bank, which we pay in such funds as he draws for, coin, eastern currency, and our own bills. The Lawrence Bank is doing business under a charter of the Legislature, with securities of Kansas State Bonds. We are not doing business under the State Banking Law.

ROBERT MORROW.

Copies of the following documents were furnished to the Committee by R. S. Stevens. Whether they are copies of originals, and if so, whether such copies are correct, the Committee have not been able to ascertain.

[COPY.]

This certifies that we have employed and constituted R. S. Stevens an agent on the part of the State of Kansas to negotiate and sell all the seven per cent. bonds of said State, issued in accordance with the provisions of an act of the Legislature of the State of Kansas, approved May 1, 1861, and an act supplementary thereto, approved June 8, 1861, authorizing the issue and sale of one hundred and fifty thousand dollars of the bonds of said State; and we hereby agree to give him for his services as such agent, all and whatever amount of money he may receive for said bonds over and above sixty cents (60 cents) on the dollar; that is to say, for all the bonds belonging to the State, which the said Stevens may sell, he is to pay into the State treasury the sum of sixty cents (60 cents) on each and every dollar.

Witness our hands this third day of December, A. D. 1861.

JOHN W. ROBINSON, Secretary of State.

GEO. S. HILLYER, Auditor of State.

This paper is, according to my belief, a true copy of the original
R. S. STEVENS.

[COPY.]

EXECUTIVE DEPARTMENT, OFFICE STATE AUDITOR, }
Topeka, Kansas, Oct. 25, 1861.

The undersigned, executive officers of this State, authorized by law to dispose of and sell the seven per cent. bonds, the issuance of which was authorized by an act of the Legislature of this State, approved May 1, 1861, entitled "An act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the

State of Kansas, to defray the current expenses of the State," and an act supplementary thereto, approved June 3, 1861, do hereby constitute and appoint Robert S. Stevens, Esq., an agent to sell and dispose of said bonds, giving him, the said Stevens, full power and authority to negotiate, dispose of and sell the entire sum of said one hundred and fifty thousand dollars of said bonds for the benefit of the State of Kansas, hereby ratifying and confirming all and whatever said Stevens may do in the premises.

Witness our hands this 26 day of October, A. D. 1861.

C. ROBINSON, Governor,
JOHN W. ROBINSON, Secretary of State,
GEO. S. HILLYER, Auditor of State.

[NOTE.—This paper was executed in Washington, in December, 1861, and dated back, the Governor's name being signed thereto by the Auditor or Secretary.]

The above, excepting the note in brackets, I believe to be a true copy of the original, on file in the Interior Department at Washington.

R. S. STEVENS.

George S. Hillyer recalled :

I met Mr. Lane at the Avenue House, in Washington. He proposed to take a walk up the avenue, which I accepted. And in relation to the agency for the sale of bonds, he desired that I should take it and arrange some price which should be accounted for to the State, and add to that five or eight cents on the dollar, as two or three cents (he said) would be immaterial to the Department, to pay me for my services to the State. I consented to no such arrangement. Mr. Lane knew before this that Stevens was the agent.

GEO. S. HILLYER.

James H. Lane recalled :

The following paper being shown to Gen. Lane, and the question asked by the Committee if it is a correct copy of the paper he signed, he answers as follows.

[COPY.]

WASHINGTON, Dec. 16, 1861.

TO THE PRESIDENT :—The undersigned would respectfully represent that the State of Kansas has, by an act of her Legislature, authorized the sale of one hundred and fifty thousand dollars of the bonds of said State, bearing interest at the rate of seven per cent. per annum, payable semi-annually, and that said bonds have been duly executed, and are now held by the State for sale. We further state that Robert S. Stevens is the duly authorized agent of the State of Kansas, to sell said bonds, and that any contract made by him will be respected by the State. The Constitution of the State of Kansas prohibits any further issue of bonds by her Legislature, and also provides that the Legislature, at the time they authorized the issue of bonds, authorized by the Constitution, shall provide by law for the levy and collection of tax to pay the interest, and for the ultimate redemption of the bonds: Such a law was passed by the Legislature, which authorized the issue of the bonds now offered for sale by the State; and we do not hesitate to say that the interest upon the bonds will be promptly paid, and the principal at maturity.

We understand that the Department of the Interior has funds belonging to several tribes of Indians in Kansas, which, by treaty provisions, are to be invested in safe and profitable stocks. Believing that these bonds are both safe and profitable, we earnestly recommend to the President that he shall direct the Secretary of the Interior to purchase said bonds at such price as to such Secretary shall be deemed advisable.

Very respectfully,

(Signed,)

S. C. POMEROY,
J. H. LANE,
M. F. CONWAY.

The original of this paper was filed in the Interior Department. and this I believe to be a true copy.

R. S. STEVENS.

A. To the best of my recollection the only paper seen by me connected with this transaction, was one handed me by Mr. George Reynolds, which he asked me to examine and consider. I received it and retained it for some time, and handed it back to him unexamined, and unsigned by me. The other was the paper referred to by me in my former testimony, brought to me in the first instance by Hillyer and Robinson, and Stevens in the rear, at which time I told them they must come to me without the company of a thief. On the same day they did return with the paper saying to me that it was a paper advising the President to make the negotiation. I am as confident as of any other event that has transpired, that Bob Stevens' name was not in the paper as in any way connected with the transaction. If it had been, I should most likely have seen it, and most certainly if I had seen it, I should not have signed my name to the paper. It is *barely possible* that I am mistaken, but I feel

very confident that if my name is to that paper, as it now reads, the crime of *forgery* is added to the crime of theft; that either my name has been forged to the paper, or the paper been forged to my name, at least so far as inserting the name of R. S. Stevens. There is a bare *possibility* that, relying upon the honesty and truthfulness of Hillyer's emphatic asseverations that Stevens had nothing whatever to do with the transaction, I may have signed the paper without reading it, and been deceived. Certainly I would not have signed it had I *known* Stevens' name was in it, of which purpose Hillyer and Robinson were fully cognizant.

The statement of George S. Hillyer, marked "A," has been shown to me, and in reply I would state: The only semblance of truth contained in the statement, is in the following and only conversation which I ever had with him on the subject of his remuneration. I inquired of him in what way he expected to be paid for his services in negotiating the bonds? He said he expected to obtain it from the Legislature. I told him if I was here when the Legislature was in session, it would afford me pleasure to aid him to get a liberal compensation for his services. Every other material statement of his, in the paper referred to, is untrue, and manufactured out of whole cloth.

J. H. LANE.

George A. Reynolds being duly sworn, says:

Q. State to this Committee what you know about the sale of Kansas State bonds to the Interior Department at Washington.

A. I arrived in Washington the first day of December, 1861, in company with Gen. James H. Lane. In a day or two after that, Robert S. Stevens arrived. I was acting as Gen. Lane's secretary. Stevens came to me, saying that he was there for the sale of some seven per cent. Kansas bonds to the Interior Department. I understood that part of them belonged to him, and part to others. He desires my services in assisting in the sale of the bonds, and said it was necessary to have the recommendation of the Kansas delegation to the President for their sale. He was not on speaking terms with Gen. Lane, and he desired me, who was the friend of both, to lay the matter before Gen. Lane, which I consented to do. In a day or two after I did have a conversation with Gen. Lane about it, and urged, as a matter of State interest, that he should use his influence for the sale, and Gen. Lane said he would give the matter his attention. I supposed, and had every reason to believe that the State would receive the full benefit of the sale of such bonds as she owned. I had no knowledge or intimation that the State was to be defrauded out of a single dollar. I knew that State bonds had been purchased

by parties in Kansas at very low rates, and supposed that when the bonds belonging to the State were sold, these bonds in private hands would be turned in, thus affording profit enough to the owners to justify them in making considerable effort for the sale.

In the mean time Messrs. Hillyer and Robinson had called on Gen. Lane, and upon their representatives. He had agreed to use his influence with the Department to effect a sale. On several occasions Lane said to Hillyer he would have nothing to do with Stevens in negotiating the sale. He and Stevens, to my knowledge, never did have any talk about it while I was in Washington.

Stevens gave me a letter, as I understood it to be, asking the President to make the sale. At the time he handed it to me the letter was signed by Pomeroy and Conway. When I handed it to Lane he refused to sign it, and gave as a reason that he had no time, and would see to it next morning. I then carried the letter back to Stevens and gave it to him; and that is the last I ever saw of it. From frequent conversations between Hillyer, Lane and others, I am confident that Lane supposed, as I did, that the State was to get the full benefit of the sale of her bonds. I never heard or knew that there was a contract between the State authorities and Stevens, for him to receive all over any stated sum that they might be sold for.

The morning after I handed Lane the letter, Mr. Hillyer came alone to Gen. Lane for final answer as I believe. Lane said to Hillyer, "Hillyer, I believe *you* are an honest man, and if you say this thing is right, and will see that the money goes to Kansas and is placed in the State Treasury, and will let it be there subject to the control of the next Legislature, I will recommend the President to order the sale." These are about his exact words. Hillyer then promised to do this. I heard Hillyer and Robinson repeatedly say to Lane that Stevens had nothing to do with the transaction. After some further conversation, he told Hillyer that he would sign the letter that I had asked him to sign. I may have glanced at the letter, but don't remember its contents. I took it to be a letter, asking the President to order the sale. It may or may not be a letter the copy of which Mr. Stevens presented in evidence. I then left the room, and in a day or two after left the city, and knew nothing further of the matter. I did not know that the sale had been consummated until I arrived in this city some three or four weeks after. I never heard from any of them, neither did Gen. Lane in my presence, the price they were to get. I presumed the State Officers would get the best price possible for the State.

Q. Did Mr. Stevens promise you any compensation for services?

A. He did. He stated to me that he was there for the sale of the Kansas State bonds, and that there was a little money to be made at it—about a thousand dollars. He stated to me that Lane and him were not friends, and that in order to effect the sale of bonds it would be necessary to have the recommendation of the entire Kansas delegation. He said the State of Kansas had authorized the issue of one hundred and fifty thousand dollars of bonds, and that he was authorized to sell bonds for the State. He did not say how many

he had there for sale, but told me he had bonds for other parties, which he proposed to put in the sale. I told him that I would lay the matter before Gen. Lane, and see what he thought of it; which I afterwards did.

Q. Did Mr. Stevens pay you according to promise for your services?

A. He did not.

Q. Has he ever paid you any part thereof?

A. He has not.

Q. Have you ever asked Mr. Stevens for the pay for your services?

A. When I arrived in this city I asked Mr. Stevens for five hundred dollars, which he gave to me, and I gave him my note therefor.

Q. When you asked Mr. Stevens for the money did he require a note.

A. He did not; but afterwards asked me for a note for the money, and I gave him one. When Mr. Stevens promised me the money, I understood it was a legitimate transaction, and if it is proven that a fraud upon the State has been committed in collusion with State Officers, I shall never expect, nor will I ever accept, a cent.

Q. Did you know at what price the bonds were to be sold?

A. I did not. I never knew any thing about it.

Q. Did you know what price the State was to receive for bonds?

A. I did not.

Q. Did you believe the State was being defrauded in any manner in the sale of bonds?

A. I understood, and believe that the profits arising from the sale of private bonds would justify the outlay of money for services in procuring the sale of the bonds. I supposed the State authorities would guard the interests of the State.

Q. Did Gen. Lane ever receive, to your knowledge, or have you ever had any suspicion that he received any money or other consideration arising from the sale of Kansas bonds?

A. I never had any suspicion, nor do I believe he ever did.

G. A. REYNOLDS.

W. F. M. Arny, being duly affirmed according to law, says:

During the last Legislature I was a member and took some part in the actions of that body, in regard to issuing bonds by the State, and on one occasion I made a motion to limit the sale of the seven per cent. bonds at eighty cents on the dollar, and stated that I knew that Kansas State Bonds could be negotiated East at that rate, and would agree to make the negotiation at that price, if my traveling expenses East and return were paid. I was induced to withdraw

my amendment upon the representation of Mr. Eaton, that the expense of going East would be saved, as parties were here who would negotiate the bonds and report to the Legislature before they adjourned, and that negotiations could be made which would be equivalent to eighty cents on the dollar. After the loan for what is termed the twenty thousand dollar War Bonds, I called on Gov. Robinson and told him that I knew parties who would negotiate them *at par*, and that I would get them negotiated in New York State at *par* free of charge, on my part. He told me that nothing could be done then in the matter because there was no qualified State Treasurer.

Q. To your knowledge did you know that the War Bonds could be negotiated at *par*.

A. I do.

Q. Did you so state to Gov. Robinson?

A. I stated to Gov. Robinson that they could be sold at *par* if they were to be used exclusively for war purposes, and I would attend to the negotiation free of charge, if they were used for that purpose, as I was about to start to New York to look after relief matters where the negotiation could be made.

Q. When was that?

A. I cannot give the exact date, but it was previous to the issuing of the bonds. The Governor told me they could not be issued on account of the Treasurer.

Q. Was this proposition identical with Mr. Collamore's?

A. It was not, it was from citizens of New York, who wished to assist Kansas in her then condition.

W. F. M. ARNY.

STATEMENT OF TREASURER, FEBRUARY 12TH, 1862.

To the Honorable Martin Anderson and others, composing the Committee appointed to examine the books and accounts of the Auditor and Treasurer.

GENTLEMEN :—In reply to the requirements made of me by your Committee, I give you herewith the following statement :

Whole amount of bonds issued under an act entitled " An act, to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State," approved May 1st, 1861, was \$50,000.

Whole amount of bonds issued under an act entitled " An act, supplementary to an act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to

defray the current expenses of the State," approved June 3d, 1861, was \$99,400.

The whole amount of bonds issued under an act entitled "An act to authorize the State of Kansas to borrow money to repel invasion, suppress insurrection, and to defend the State in time of war," approved May 7th, 1861, was \$40,000.

Of the above, \$62,200 of the bonds issued under the supplementary act, approved June 3d, 1861, were issued in redemption of State warrants, redeeming warrants to the amount of \$43,540.

The whole amount paid into the Treasury from sale of bonds, issued under the two acts, approved May 1st, 1861, and June 3d, 1861, is \$33,119 68.

To amount received from sale of war bonds,	-	-	\$12,400	00
The amount paid by County Treasurers,	-	-	11,094	97
The amount received from sale of Capitol materials,			261	33
The amount received from County Treasurers for school purposes,	-	-	353	93

Total,	-	-	\$57,229	91
Whole amount of war warrants redeemed,	\$5,159	15		
Amount paid in redemption of coupons,	4,564	00		
Amount of State warrants redeemed,	36,625	41	46,348	56

\$10,881 35

Balance in the Treasury February 10th, 1862, of which there is war funds,	\$7,240	85		
School funds,	353	93	7,594	78

\$3,286 57

Amount required to redeem outstanding coupons,	-	-	686	00
Amount subject to draft,	-	-	2,600	57
Whole amount of State warrants issued,			82,670	38
Whole amount redeemed,	\$80,165	41		
Interest paid on above,	399	06	80,564	47

Amount warrants outstanding,	-	-	\$2,115	91
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H. R. DUTTON, Treasurer.

The report was made the special order for 2 o'clock, P. M., the next day, and was ordered to be printed.

On the next day, February 14th, at 2 o'clock, P. M., the House took up the special order.

Mr. Plumb offered the following resolution which was adopted:

Resolved, That the report of the Committee on Investigation be received and spread upon the Journals, and that said Committee are hereby authorized to take such additional testimony as they see fit."

The resolution reported by the Committee was amended by consent by striking out the words "and they are hereby," and making it read as follows :

Resolved, That Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of the State of Kansas, be impeached of high misdemeanors in office,

And was adopted unanimously.

Mr. Plumb offered the following resolution which was adopted :

Resolved, That a Special Committee of five be appointed to act with the Attorney General, to prepare articles of impeachment against Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of the State of Kansas, for high misdemeanor in office, and to manage the trial of the said parties upon said articles before the Senate.

Mr. Plumb offered the following resolution which was adopted :

Resolved, That a Special Committee of three be appointed by the House to notify the Senate that the House will present an impeachment of Charles Robinson, Governor, John W. Robinson, Secretary of State, George S. Hillyer, Auditor of the State of Kansas, and that in due time the House, by its managers, will present specific articles of impeachment, and to ask process against the persons impeachment.

On the next day, February 15th, the Speaker appointed Messrs. Plumb, Spaulding, Potter, Wagstaff and Wilson, special committee to conduct the impeachment cases before the Senate; also, Messrs. Clark, Fishback and McCarthy, Special Committee to notify the Senate that the House has impeached C. Robinson, Governor, Geo. S. Hillyer, Auditor, and J. W. Robinson, Secretary of State.

On the same day Mr. Clark, from Special Committee to notify the Senate of the impeachment of C. Robinson, George S. Hillyer, and J. W. Robinson, made the following report :

The Special Committee appointed by the House to notify the Senate that the House will present an impeachment of certain State officers, would report :

Your Committee performed the duty assigned them, by appearing at the bar of the Senate, and by reading in the Senate, and by delivering to the Secretary thereof, the following notice and demand :

SIDNEY CLARKE, Chairman.

[COPY.]

MR. PRESIDENT:—The undersigned appear at the bar of the Senate as a Committee of the House of Representatives, charged with the duty of notifying your honorable body that the House has impeached Charles Robinson, Governor, John W. Robinson, Secretary of State, George S. Hillyer, Auditor of the State of Kansas, for high misdemeanors in office, and will, in due time, by its managers, present special articles of impeachment, and demand that the Senate take order for the appearance of the persons above named to answer to said impeachment.

SIDNEY CLARKE,
JOHN MCCARTHY,
W. H. M. FISHBACK.

On February 18th, the following message was received from the Senate :

MR. SPEAKER:—I am directed to notify the House that the Senate has adopted the accompanying preamble and resolution.

A. R. BANKS, Secretary.

WHEREAS, On the 15th day of February the House of Representatives, by three of their members, Messrs. Sidney Clarke, John McCarthy and W. H. M. Fishback, at the bar of the Senate, impeached Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of State, of high misdemeanors in office, and informed the Senate that the House of Representatives will, in due time, exhibit articles of impeachment against them, and make good the same; and likewise demanded that the Senate take order for the appearance of the said Charles Robinson, Governor, John W. Robinson, and George S. Hillyer, to answer said impeachment; therefore

Resolved, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

On February 20th, Mr. Plumb, from Committee of Managers for the trial of impeachments, reported articles of impeachment of John W. Robinson, Secretary of State.

On motion, the House resolved itself into Committee of the Whole on the articles of impeachment,

Mr. Russell in the chair.

After some time spent therein, the Committee arose, and, through its chairman, reported back to the House the articles of impeachment of John W. Robinson, Secretary of State, and recommended their adoption.

Report of the Committee of the Whole was agreed to.

Mr. Plumb moved that the clerk of this House be instructed to inform the Senate that the House, through its managers, is prepared to present to that body articles of impeachment of John W. Robinson, Secretary of State.

Motion Prevailed.

On the same day the following message from the Senate was received:

MR. SPEAKER :—I am instructed to notify the House that the Senate is ready to receive the managers for the purpose of exhibiting the articles of impeachment of which they have been notified.
A. R. BANKS, Secretary.

On February 25th, Mr. Plumb, from Committee of Managers, presented the plea of J. W. Robinson, signed by his Attorneys, Shannon, Stanton and Case, and submitted a replication thereto, which was adopted.

On the same day, Mr. Plumb, from Committee of Managers, presented an amended replication to the plea of John W. Robinson in the impeachment case, which was adopted and ordered to take the place of the one adopted to-day.

On February 26th, Mr. Plumb, from Committee of Managers on impeachments, presented the articles of impeachment of George S. Hillyer, Auditor of State, and also of Charles Robinson, Governor.

On motion, the articles of impeachment against George S. Hillyer, Auditor of State, were adopted.

The vote being taken on the adoption of the articles of impeachment of Charles Robinson resulted as follows:

Ayes 53. Nays 7.

And so the resolution was adopted.

On motion of Mr. Plumb, the clerk was instructed to notify the Senate that the House, through its managers, is ready to present articles of impeachment against Charles Robinson, Governor, and George S. Hillyer, Auditor of State.

Mr. Plumb offered the following resolution which was adopted:

Resolved, That the Board of Managers on the part of the House be instructed to move that the first Monday in June be set for the trial of the cases of impeachment against the State officers.

The following message was received from the Senate :

MR. SPEAKER:—I am directed to inform the House of Representatives, that the Senate will be ready to receive the Managers of the House for the purpose of exhibiting their articles of impeachment against Charles Robinson and George S. Hillyer, agreeably to the notification received by the Senate from the House of Representatives, at the hour of 7 o'clock, this evening.

A. R. RANKS, Secretary.

On February 27th, Mr. Anderson, by consent, offered the following resolution, which was adopted :

WHEREAS, It has come to the knowledge of this House that there are material and important witnesses on the part of the prosecution of the impeachment now pending before the Senate, are in Washington, to wit: James C. Stone, S. C. Pomeroy, George W. Collamore and Martin F. Conway, and that D. H. Weir and Chas. Chadwick and James H. Lane, have left this city since the initiation of these prosecutions, and the House is unable at present to ascertain where the said Lane, Weir and Chadwick are at this time; and

WHEREAS, These prosecutions, nor either of them can be conducted with effect without the testimony of said witnesses, and the said witnesses are material and important for said prosecutions without whose evidence this House cannot safely proceed to trial; therefore, be it

Resolved, That the Board of Managers be requested to present this resolution and preamble to the Senate, and ask that the trial of these impeachments be postponed until such time as in the opinion of the Board, will enable said Managers to procure the testimony of said witnesses.

PROCEEDINGS

IN THE

SENATE.

SENATE CHAMBER, }
February 15, 1862. }

The following communication from a committee of the House was read by Mr. Clark on the part of the committee :

MR. PRESIDENT:—The undersigned appear at the bar of the Senate as a committee of the House of Representatives, charged with the duty of notifying your honorable body, that the House has impeached Charles Robinson, Governor, John W. Robinson, Secretary of State, Geo. S. Hillyer, Auditor of the State of Kansas, for high misdemeanors in office, and will in due time, by its managers, present special articles of impeachment, and demand that the Senate take order for the apprehension of the persons above named to answer to the said impeachment.

SIDNEY CLARKE,
JOHN McCARTHY,
W. H. M. FISHBACK.

AFTERNOON SESSION.

TWO O'CLOCK, P. M.

Mr. Ingalls offered the following resolution which was adopted:
Resolved, That the communication received this morning from the committee of the House of Representatives, be referred to a

Special Committee of three with instructions to report what order the Senate will take therein.

SENATE CHAMBER,
Monday, 2 o'clock, P. M., Feb. 17th, 1862. }

President announced as the committee to whom was referred the resolution introduced by Mr. Ingalls on Saturday, in relation to what action the Senate will take in regard to the communication from the House of Representatives, Messrs. Ingalls, Lynde and Spriggs.

Mr. Ingalls offered the following resolution which was adopted :

Resolved, That a Committee of three be appointed by the chair to report rules for the Government of the Senate in the cases of impeachment.

The President announced as the committee to prepare rules for the government of the Senate in the cases of impeachment, Messrs. Ingalls, Hoffman and Gunn.

SENATE CHAMBER,
Tuesday, Feb. 18th, 1862. }

Mr. Ingalls, chairman of the Special Committee to prepare rules for the government of the Senate in cases of impeachment, made the following report :

MR. PRESIDENT :—The special committee to whom was referred the subject of the rules for the government of the Senate in cases of impeachment, have considered the same and instruct me to make the accompanying report and recommend its passage by the Senate.

INGALLS. Chairman.

RULES TO BE OBSERVED IN CASES OF IMPEACHMENT.

1. When the Senate shall receive notice from the House of Representatives, that managers are appointed on their part to conduct an impeachment against any person, and are directed to carry such articles to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment agreeably to said notice.

2. When the managers of an impeachment shall be introduced at the bar of the Senate, and shall have signified that they are ready to exhibit articles of impeachment against any person, the President of the Senate shall inform the managers that the Senate is ready to receive the same, after which they shall be read and delivered, and the President shall inform the managers that the Senate will take proper order on the subject of the impeachment of which due notice shall be given to the House of Representatives.

3. Thereupon a summons shall issue, directed to the person or persons impeached, in manner following :—

COURT OF IMPEACHMENTS.

The Senate of the State of Kansas, to _____ Greeting :

WHEREAS, The House of Representatives of Kansas, did, on the _____ day of _____, exhibit to the Senate articles of impeachment against you, the said _____, in the words following, (here recite the articles,) and did demand that you the said _____ should be put to answer the accusations as set forth in said articles, and that such proceedings might be had agreeable to law and justice. You, the said _____, are hereby summoned to be and appear before the Senate of the State of Kansas, at their Chamber in Topeka, on the _____ day of _____, then and there to answer to the said articles of impeachment, and then and there to obey and perform such orders and judgments as the Senate of the State of Kansas shall make in the premises according to the Constitution of the State. Hereof fail not.

Witness _____, President of the Senate, at Topeka, this _____ day of _____.

The said summons shall be attested by the Secretary of the Senate, and served by the Sergeant-at-Arms, or such other person as the Senate shall specially appoint for that purpose who shall serve the same in accordance with the forms next hereafter given.

4. A precept shall be indorsed on said writ of summons as follows—

Court of Impeachments, } ss.
State of Kansas.

The Senate of the State of Kansas to ———, Greeting,—

You are hereby commanded to deliver to and leave with ———, if he can be found, a true and attested copy of the within writ of summons, together with a copy of this precept, showing him both, or in case he cannot with convenience be found, then you are to leave true and attested copies of the said summons and precept, at his usual residence or place of business, and in whatever way the service is performed, let it be done at least ——— days before the appearance day mentioned in the said writ of summons, thereof fail not, and make return of this writ of summons and precept, with your proceedings endorsed thereon, on or before the appearance day named in said summons.

Witness ———, President of the Senate, at Topeka, this ——— day of ———; which precept shall be attested by the Secretary of the Senate.

5. Subpoena shall be issued by the Secretary of the Senate, upon application of the managers of the impeachment or of the part impeached, or of his counsel in the following form, to wit:

To ———, Greeting:—

You and each of you are hereby commanded to appear before the Senate of the State of Kansas on the ——— day of ———, then and there to testify your knowledge in the cause which is before the Senate, in which the House of Representatives have impeached ———. Hereof fail not.

Witness ———, President of the Senate, this ——— day of ———; which shall be attested by the Secretary.

The subpoena shall be directed to the proper officer of the district, in which the witness resides, in manner following, to wit:—

THE SENATE OF THE STATE OF KANSAS,

To the Sheriff of _____ County :

You are hereby commanded to serve and return the within subpoena, according to law.

Dated at Topeka, this _____ day of _____ A. D. _____

6. The President of the Senate shall direct all forms of proceedings not specially provided for by the Senate ; he shall also be authorized to employ such assistance as may be necessary to serve all process required during the trial.

7. At twelve o'clock of the day appointed for the return of the summons against the person impeached, the Legislative and Executive business of the Senate shall be suspended, and the Secretary shall administer an oath to the returning officer as follows ? " You do solemnly swear that the return made and subscribed by you upon the process issued on the _____ day of _____, by the Senate of the State of Kansas, against _____, is truly made, and that you have performed said service as therein described, so help you God ;" which oath shall be entered at large upon the records.

8. The person or persons impeached shall then appear and answer the articles of impeachment against him. If he appear in person or by Attorney, it shall be recorded ; the record stating the person appearing, and the capacity in which he appears. If there be no appearance in person or by Attorney, the fact shall also be recorded.

9. At twelve o'clock of the day appointed for the trial of an impeachment, the Legislative and Executive business of the Senate shall be postponed. The Secretary shall then administer the following oath to the President :

" You do solemnly swear that in all things pertaining to the trial of the impeachment of _____, you will do impartial justice according to the Constitution and Laws of the State of Kansas."

The President shall administer the same oath to each Senator present ; after which the Secretary shall notify the House of Representatives that the Senate is ready to proceed upon the impeachment of _____, in the Senate Chamber of the State of Kansas.

10. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

11. All motions made by the managers, the parties or their counsel, shall be in writing, directed to the President, read by the Secretary, and decided by yeas and nays without debate, all of which shall be entered on the records.

12. Witnesses shall be sworn in the manner following :—" You do solemnly swear (or affirm) that the evidence you shall give in the case now pending between the State of Kansas and _____, shall be the truth, the whole truth, and nothing but the truth, so help you God." The oath shall be administered by the Secretary.

13. Witnesses shall be examined in chief by the party producing them, and cross-examined in the usual form.

14. If a Senator be called as witness, he shall be sworn, and give his testimony standing in his place.

15. If a Senator wish a question put to a witness, it shall be reduced to writing and put by the President.

Mr. Ingalls from the Special Committee to whom was referred the communication from the House of Representatives, made the following report :—

MR. PRESIDENT :—The committee to whom was referred the accompanying communication, have had the same under consideration, and instruct me to report the following Preamble and Resolution, and recommend its adoption by the Senate :—

WHEREAS, On the 15th day of February, the House of Representatives by three of their members, Messrs. Sidney Clark, John McCarthy, and W. H. M. Fishback, at the bar of the Senate, impeached Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of State, of high misdemeanors in office, and informed the Senate that the House of Representatives will in due time exhibit articles of impeachment against them and make good the same, and likewise demand that the Senate take order for the appearance of the said Charles Robinson, John W. Robinson and George S. Hillyer, to answer said impeachment; therefore

Resolved., That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

[COMMUNICATION.]

MR. PRESIDENT:—The undersigned appear at the bar of the Senate as a committee of the House of Representatives, charged with the duty of notifying your honorable body that the House has impeached Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of State of Kansas, for high misdemeanors in office, and will in due time by its managers, present special articles of impeachment, and demand that the Senate take order for the appearance of the persons above named, to answer to said impeachment.

(Signed,)

SIDNEY CLARK,
JOHN MCCARTHY,
W. H. M. FISHBACK.

Mr. Ingalls moved that the report of the Committee on Rules for the government of the Senate in cases of impeachment, be referred to the Committee of the Whole.

Carried.

On request of Mr. Broadhead, the Senate went into a Committee of the Whole for the consideration of the report of the Committee on Rules for the government of the Senate in cases of impeachment.

Mr. Hoffman in the chair.

After some time spent therein, the committee arose and through its chairman reported the Rules back to the Senate with amendments, with the recommendation that they be printed.

The report of the committee was agreed to.

SENATE CHAMBER,
Wednesday, Feb. 19th, 1862. }

On request of Mr. Ingalls,

The Senate went into Committee of the Whole for the consideration of the Rules, to be adopted by the Senate in the cases of impeachment;

Mr. Keeler in the chair.

After some time spent therein, the committee arose, and through its chairman, reported the same back to the Senate with amendments, and recommended their adoption.

The report of the Committee of the Whole was agreed to.

SENATE CHAMBER,
Thursday, Feb. 20th, 1862. }

Mr. Ingalls offered the following resolution, which was adopted :

Resolved, That the Report of the Committee on Rules to be observed by the Senate in cases of impeachment, as amended by the Committee of the Whole, be engrossed and entered at large upon records of the Senate.

Mr. Ingalls offered the following resolution which was adopted :

Resolved, That two hundred and fifty copies of the Rules adopted to govern the Senate in cases of impeachment be printed in pamphlet form for the Legislature.

Mr. Ingalls offered the following resolution, which was adopted :

Resolved, That the Secretary of the Senate be directed to inform the House of Representatives that the Senate is ready to receive the managers for the purpose of their exhibiting articles of impeachment against John W. Robinson.

Mr. Plumb, chairman of the managers on the part of the House of Representatives, appeared at the bar of the Senate and read the following communication :

MR. PRESIDENT:—The committee of managers appointed on behalf of the House of Representatives, herewith exhibit to the Senate articles of impeachment against John W. Robinson, Secretary of State.

ARTICLES OF IMPEACHMENT

Exhibited by the House of Representatives of the State of Kansas, for themselves, and on behalf of all the people of Kansas against John W. Robinson, in maintenance of their impeachment heretofore preferred against him for high crimes and misdemeanors.

ARTICLE I.

That the said John W. Robinson was, prior to the third day of June, A. D. 1861, ever since has been and still is, Secretary of State of said State of Kansas. That on the fifth day of June, A. D. 1861, the said John W. Robinson, as Secretary of State, together with the Governor and Auditor of said State, was authorized and empowered to negotiate and sell the bonds of the State, the issuance of which was provided for in the act authorizing the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State, approved May 1st, 1861.

That bonds of the State of Kansas, to defray the current expenses of said State as aforesaid, were prepared, executed and issued according to law.

That the said John W. Robinson, being so empowered to sell and negotiate said bonds, did authorize and empower one Robert S. Stevens to negotiate and sell said bonds, to the amount of eighty-seven thousand two hundred dollars, at any price over sixty per centum upon the amount of said bonds, he, the said Stevens, paying to the State no more than sixty per centum of said amount; that under said agreement, and with the full knowledge and consent of said Robinson, said Stevens proceeded to sell and deliver a large amount of said bonds, to wit: The amount of fifty-six thousand dollars of said bonds at the rate of eighty-five per centum on said amount of fifty-six thousand dollars, all of which was well known to said Robinson; and under the said agreement, with the full knowledge and consent of said Robinson, said Stevens paid over and accounted to said State for only the amount of sixty per centum on said bonds so sold as aforesaid, which said agreement, so made and entered into by said Robinson, was in direct violation of the laws of said State in this: that under the said laws said bonds could not be sold for less than seventy per centum on the amount of said bonds, and was in violation of the official duties of the said Robinson in this: that the said State was, by said agreement, defrauded out of its just rights, in that said State was entitled to receive the full amount for which said bonds were sold, while in truth and in fact, with the full knowledge and consent of the said Robinson, said bonds were sold for eighty-five per centum upon the dollar of the amount of said bonds, while in truth and in fact the said State did not receive more than sixty per centum upon the whole amount of said bonds so sold,

whereby said John W. Robinson betrayed the trust reposed in him by the State of Kansas, subjected said State to great pecuniary loss, and has thereby been guilty of a high misdemeanor in said office of Secretary of State aforesaid.

ARTICLE II.

That the said John W. Robinson, as Secretary of State, as aforesaid, being authorized and empowered to negotiate and sell said bonds as aforesaid, well knowing that by the laws of said State said bonds could not be sold for less than seventy per centum upon the dollar of the face of said bonds, and contriving to cheat and defraud said State in the premises, did secretly enter into the agreement above set forth with said Stevens, so that said State of Kansas should realize therefrom only sixty per centum upon the dollar, well knowing at the time he so made said agreement that said bonds could be sold for eighty-five per centum upon the dollar of the amount of the face of said bonds, thereby the said Robinson was guilty of high misdemeanor in his office of Secretary of State, as aforesaid.

ARTICLE III.

That the said John W. Robinson, as Secretary of State, as aforesaid, being authorized and empowered to negotiate and sell said bonds, as aforesaid, with the guilty intent to cheat and defraud said State out of its just rights in the premises, consented that said Stevens, acting as the agent to sell and negotiate said bonds under the agreement, aforesaid, should receive said bonds, to wit: Said bonds to the amount of eighty-seven thousand two hundred dollars, with all the coupons for the semi-annual interest upon said bonds attached to said bonds; and the said Stevens, with the full knowledge and consent of said Robinson, received said bonds with said coupons thereto attached; and included among the coupons so attached, were coupons for the semi-annual interest due on the amount of said bonds on the first day of January, A. D. 1862, being the first semi-annual interest payable on the amount of said bonds; that said Stevens, with the full knowledge of said Robinson, did not sell and negotiate the bonds so sold by him until after said coupons for the first semi-annual interest became due and payable, to wit: After the first day of January, A. D. 1862, and at the time said, so sold as aforesaid, were sold by said Stevens; said Stevens, with the full knowledge and consent of said Robinson, detached from the said

bonds for the sum of eighty-seven thousand two hundred dollars, the said coupons for the first semi-annual interest upon the amount of said bonds, which said semi-annual interest had not then accrued against the State, and with the full knowledge and consent of said Robinson, presented said coupons so attached, to the Treasurer of said State, and received from said Treasurer the full amount of the semi-annual interest upon the amount of said bonds, amounting to three and one-half of one per centum upon the whole amount of bonds so sold, to wit: upon the said sum of eighty-seven thousand two hundred dollars, whereby the said Robinson was guilty of high misdemeanor in his office of Secretary of State, as aforesaid.

ARTICLE IV.

That the said John W. Robinson, as Secretary of State, as aforesaid, being empowered and authorized to sell and negotiate said bonds, as aforesaid, was thereby constituted the agent of the State aforesaid, for the negotiation and sale of said bonds, and that while acting as such agent, and without any authorities of law therefor, authorized and empowered one Robert S. Stevens, aforesaid, to sell and negotiate said bonds, and entrusted to said Stevens for the purpose of selling and negotiating the same, a large amount of said bonds, to wit: bonds to the amount of eighty-seven thousand dollars; that he took no security or other guaranty from said Stevens that he would preserve the State from loss while he so held, negotiated and sold bonds, as aforesaid, whereby said Robinson was guilty of high misdemeanor in his said office of Secretary of State, as aforesaid.

ARTICLE V.

That the said John W. Robinson, as Secretary of State as aforesaid, entered into a conspiracy with George S. Hillyer, Auditor of State, and Robert S. Stevens, to cheat and defraud said State in this: that the said Robinson and the said Hillyer, constituting a majority of those persons authorized by law to sell and negotiate said bonds, were empowered and authorized to sell and negotiate said bonds, that they, said Robinson and Hillyer, so conspiring as aforesaid, with said Stevens, did secretly, in the city of Washington, in the District of Columbia, whither they had gone for the purpose of carrying out and consummating said conspiracy, well knowing at the same time that said bonds could be sold for more than the sum

of seventy per centum upon the amount of the face of said bonds, and without making any effort to sell or negotiate said bonds, entered into an agreement with said Stevens, constituting and appointing said Stevens the agent of the State aforesaid for the sale of said bonds, whereby said Stevens was to receive all the proceeds of said bonds above the amount of sixty per centum upon the face of the bonds he should so sell, and the said Hillyer and said Robinson, entrusted to said Stevens, bonds of the said State which which they so empowered and authorized to sell as aforesaid, to the amount of eighty-seven thousand two hundred dollars, to be sold and negotiated by him under the agreement aforesaid, and said Robinson, Hillyer and Stevens well knew that at the time said agreement was so made as aforesaid, and it was so understood between them, that said bonds could be sold to the Government of the United States at the rate of eighty-five per centum on the dollar of the amount of said bonds, and the said Stevens thereafter, with the full knowledge and consent of said Hillyer and Robinson, proceeded to sell and did sell said bonds to the amount of fifty-six thousand dollars at the rate of over seventy per centum upon the face of said bonds, to wit: at the rate of eighty-five per centum on the face of said bonds, and with the full knowledge and consent of said Robinson and Hillyer, did receive for said bonds, so sold, to wit: bonds to the amount of fifty-six thousand dollars, payment at the rate of eighty-five per centum upon the dollar of said amount, to wit: the sum of forty-seven thousand and six hundred dollars; which said amount the said State was entitled to receive for said bonds, but the said Stevens, acting under the said agreement heretofore set forth between him and the said Robinson and Hillyer, and in carrying out said conspiracy, to cheat and defraud said State, and with the full knowledge, consent and connivance of said Robinson and Hillyer, paid over to said State, as the full amount to which said State was entitled, only the sum of thirty-three thousand six hundred dollars, being only sixty per centum upon the amount of bonds, so by said Stevens sold, as aforesaid, whereby said State was cheated and defrauded by said conspiracy, out of the sum of fourteen thousand dollars; and the said Robinson further conspiring with said Hillyer and said Stevens to cheat and defraud said State, together with said Hillyer, under a preconcerted fraudulent agreement between said Robinson, Hillyer and Stevens, entrusted to said Stevens under the said fraudulent agreement, the said bonds of said State to the amount of eighty-seven thousand two hundred dollars with the coupons

thereunto attached for the first semi-annual interest upon the amount of said bonds, which said interest by the terms of said coupons became due on the first day of January, A. D. 1862, and the said Robinson and the said Hillyer well knew that said Stevens did not sell the bonds so, as aforesaid, sold by him until after said first day of January, 1862, and the said bonds were not so sold until after that time, and at the time said interest by the terms of said coupons became due and payable, the whole amount of said bonds, to wit: to the amount of eighty-seven thousand two hundred dollars, were still the property of said State, which said Robinson and Hillyer well knew that the said Stevens in carrying out the before mentioned conspiracy to cheat said State, with the full knowledge, consent and connivance of said Robinson and Hillyer, while said bonds were the property of said State, and before the same or any part thereof had been sold, detached said coupons from said bonds, and with the like knowledge, consent and connivance of said Robinson and Hillyer, and in the furtherance of said conspiracy said Stevens did present said coupons to, and received from the Treasurer of said State the full amount of said first semi-annual interest upon said sum of eighty-seven thousand two hundred dollars, amounting to three thousand and fifty-two dollars, whereby, by this conspiracy, aforesaid, the State of Kansas was cheated and defrauded by said Robinson, as Secretary of State, as aforesaid, conspiring with said Hillyer as Auditor of State, as aforesaid, and said Stevens, out of the sum of three thousand and fifty-two dollars, whereby the said Robinson was guilty of high misdemeanor in his office of Secretary of State, as aforesaid.

ARTICLE VI.

That the said John W. Robinson as Secretary of State, as aforesaid, under the laws of said State, was authorized and empowered to procure the printing of the "Banking Law" submitted to the votes of the people of said State at the general election in November, 1861, where practicable, in one newspaper in each county in the State; and whereas he well knew that no newspaper was published in the county of Wabaunsee in said State, permitted and consented that one J. F. Cummings should, in fraud of said law and said State, print said law in what purported to be a newspaper printed and published in the county of Wabaunsee, styled the "Wabaunsee

Patriot," which said pretended newspaper was printed and published as said Robinson well knew, for the sole purpose of defrauding said State out of the fees for the publication of said "Banking Law," and the said Robinson afterwards, well knowing all the facts above stated, certified that the account of said Cummings for said pretended publication was correct, and the amount thereof due from said State to said Cummings, to wit: the amount of three hundred and forty-four dollars, which amount said Cummings by virtue of said certificate, drew from the Treasury of said State the said amount, and the said Robinson well knew that in so certifying as aforesaid, he was cheating and defrauding said State, whereby said John W. Robinson was guilty of high misdemeanor in his said office of Secretary of State, aforesaid.

ARTICLE VII.

Thatsaid John W. Robinson, as Secretary of State, as aforesaid, was guilty of high misdemeanor in his said office in this: that the said John W. Robinson, as Secretary of State, as aforesaid, was by the laws of said State, entrusted with the duty of countersigning certain bonds of said State issued under the provisions of an act entitled "An act to authorize the State of Kansas to borrow money to repel invasion, suppress insurrection and defend the State in time of war," approved May 7th, A. D. 1861; and whereas, by said law the bonds of said State were authorized to be issued for the sum of twenty thousand dollars, and no more, he, the said John W. Robinson, countersigned bonds pretended to be issued under the provisions of said law, to the amount of forty thousand dollars, of which said bonds so countersigned by him, thirty-one thousand dollars were negotiated and sold, which said act of said Robinson in countersigning more than twenty thousand dollars was in violation of law and to the great damage of said State; thereby said Robinson was guilty of high misdemeanor in his said office of Secretary of State.

ARTICLE VIII.

That the said John W. Robinson, as Secretary of State, as aforesaid, was in conjunction with the Auditor and Treasurer of said State, authorized and empowered by the laws of the said State of Kansas to receive bids for the public printing for said State, for the year

A. D. 1861, and to award contracts for the same to the lowest responsible bidder or bidders. That the said John W. Robinson, as Secretary of State, as aforesaid, acting in conjunction with the Auditor and Treasurer of said State, as aforesaid, did, on the tenth day of June, A. D. 1861, award to Trask & Lowman, printers and publishers, of Lawrence, Kansas, the contract for the Legislative Printing for the year A. D. 1861, as the lowest bidders for that branch of the public printing for said year; and the said John W. Robinson, as Secretary of State, as aforesaid, did officially notify the said Trask & Lowman that the said contract had been so, as aforesaid, awarded to them, and requiring them, the said Trask & Lowman, to come forward within the time prescribed by law, and file their bond, conditioned for the faithful performance of said printing so awarded to them, that the said Trask & Lowman did file in the office of the said Secretary of State, within the time prescribed by law, a good and sufficient bond, in manner and form as required by law, conditioned for the faithful and legal performance of the said printing so as aforesaid awarded to them; that the said bond was approved by the Secretary in his official capacity, and by him duly filed in his office; that a few days after the filing of said bond, and its approval as aforesaid, the said John W. Robinson, Secretary of State, as aforesaid, did consent to the withdrawal of the bid of said Trask & Lowman for said Legislative printing, and, the aforesaid bond by said Trask & Lowman, so as aforesaid filed in the Secretary's office, and the said bid and bond were withdrawn; in consequence of which the contract for the said Legislative printing, had to be and was awarded to the next lowest bidder, whereby the State suffered great pecuniary damage, and the said John W. Robinson, Secretary, as aforesaid, did violate his official oath, and became guilty of a high misdemeanor against the said State.

And the House of Representatives of said State of Kansas, saving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation or impeachment against the said John W. Robinson, and also of replying to his answers hereto, and of offering proof to all and every of the aforesaid articles, and to all and every other articles of impeachment or accusation, which shall be exhibited by them, as the case shall require, do demand that the said John W. Robinson may be put to answer the misdemeanor as herein charged, and that such proceedings, examinations, trials and

judgments may be thereupon had and given as are agreeable to justice.

SAMUEL A. STINSON,
Attorney General.

P. B. PLUMB,
AZEL SPAULDING,
F. W. POTTER,
W. R. WAGSTAFF,
DAVIES WILSON,

} *Managers on the part of the*
} *House of Representatives.*

The foregoing are the articles of Impeachment duly prepared by the House of Representatives of the State of Kansas, against John W. Robinson, on the twentieth day of February, A. D. 1862.

M. S. ADAMS,

Speaker of House of Representatives.

JOHN FRANCIS,

Chief Clerk House of Representatives.

SENATE CHAMBER, }
Friday, February 21st, 1862. }

Mr. Ingalls offered the following resolution, and moved its adoption:

Resolved, That the Secretary be directed to issue a summons to John W. Robinson, Secretary of the State of Kansas, to answer certain articles of impeachment exhibited against him by the House of Representatives on Thursday the 20th instant, and that the said summons be returnable on the 24th day of February, and be served at least one day before the return day thereof.

Mr. Lynde moved to strike out the "24th" and insert the "25th" in the resolution.

Lost.

The question recurring upon the original resolution offered by Mr. Ingalls, it was

Adopted.

The Rules as amended by the Committee of the Whole were ordered to be printed for the use of the Legislature.

RULES TO BE OBSERVED IN CASES OF IMPEACHMENT.

1. When the Senate shall receive notice from the House of Representatives that Managers are appointed on their part to conduct an Impeachment against any person, and are directed to carry such articles to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment agreeable to said notice.

2. When the managers of an impeachment shall be introduced to the bar of the Senate, and shall have signified that they are ready to exhibit articles of impeachment against any persons, the President of the Senate shall inform the managers that the Senate is ready to receive the same, after which they shall be read and delivered, and the President shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

3. Thereupon a summons shall issue, directed to the person or persons impeached, in the manner following:

COURT OF IMPEACHMENTS.

The Senate of the State of Kansas, to _____ Greeting: -

WHEREAS, The House of Representatives of Kansas, did, on the _____ day of _____, exhibit to the Senate articles of impeachment against you, the said _____, in the words following, (here recite the articles,) and did demand that you the said _____ should be put to answer the accusations set forth in said articles, and that such proceedings might be had agreeable to law and justice. You, the said _____, are hereby summoned to be and appear before the Senate of the State of Kansas, at their Chamber in Topeka, on the _____ day of _____, then and there to answer to the said articles of impeachment, and then and there to obey and perform such orders and judgments as the Senate of the State of Kansas shall make in the premises according to the Constitution of the State. Hereof fail not.

Witness _____, President of the Senate, at Topeka, this _____ day of _____.

The said summons shall be attested by the Secretary of the Senate, and served by the Sergeant-at-Arms, or such other person as the Senate shall specially appoint for that purpose who shall serve the same in accordance with the forms next hereafter given.

4. A precept shall be indorsed on said writ of summons as follows—

Court of Impeachments, } ss.
State of Kansas.

The Senate of the State of Kansas to _____, Greeting,—

You are hereby commanded to deliver to and leave with _____, if he can be found, a true and attested copy of the within writ of summons, together with a copy of this precept, showing him both, or in case he cannot with convenience be found, then you are to leave true and attested copies of the said summons and precept, at his usual residence or place of business, and in whatsoever way the service is performed, let it be done at least _____ days before the appearance day mentioned in the said writ of summons, thereof fail not, and make return of this writ of summons and precept, with your proceedings endorsed thereon, on or before the appearance day named in said summons.

Witness _____, President of the Senate, at Topeka, this _____ day of _____; which precept shall be attested by the Secretary of the Senate.

5. Subpoena shall be issued by the Secretary of the Senate, upon application of the managers of the impeachment or of the part impeached, or of his counsel in the following form, to wit:

To _____, Greeting:—

You and each of you are hereby commanded to appear before the Senate of the State of Kansas on the _____ day of _____, then and there to testify your knowledge in the cause which is before the Senate, in which the House of Representatives have impeached _____. Hereof fail not.

Witness _____, President of the Senate, this _____ day of _____; which shall be attested by the Secretary.

The subpoena shall be directed to the proper officer of the Senate, in manner following, wit:—

THE SENATE OF THE STATE OF KANSAS,

To the Sergeant-at-Arms:

You are hereby commanded to serve and return the within subpoena, according to law.

Dated at Topeka, this — day of — A. D. —

6. The President of the Senate shall direct all forms of proceedings not specially provided for by the Senate; he shall also be authorized to employ such assistance as may be necessary to serve all process required during the trial.

7. At twelve o'clock of the day appointed for the return of the summons against the person impeached, the Legislative and Executive business of the Senate shall be suspended, and the Secretary shall administer an oath to the returning officer as follows: "You do solemnly swear that the return made and subscribed by you upon the process issued on the — day of —, by the Senate of the State of Kansas, against —, is truly made, and that you have performed said service as therein described, so help you God;" which oath shall be entered at large upon the records.

8. The person or persons impeached shall then appear and answer the articles of impeachment against him. If he appear in person or by Attorney, it shall be recorded; the record stating the person appearing, and the capacity in which he appears. If there be no appearance in person or by Attorney, the fact shall also be recorded.

9. At twelve o'clock of the day appointed for the trial of an impeachment, the Legislative and Executive business of the Senate shall be postponed. The Secretary shall then administer the following oath to the President: "You do solemnly swear that in all things pertaining to the trial of the impeachment of —, you will do impartial justice, according to the law and the evidence."

The President shall administer the same oath to each Senator present; after which the Secretary shall notify the House of Representatives, or the person or persons who may have been chosen by the House of Representatives, to represent said House of Representatives upon the trial, that the Senate is ready to proceed upon the impeachment of —, in the Senate Chamber of the State of Kansas.

10. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

11. All motions made by the managers, the parties or their counsel, shall be in writing, directed to the President, read by the Secretary, and decided by yeas and nays without debate, by the Senate, all of which shall be entered on the records.

12. Witnesses shall be sworn in the manner following:—"You do solemnly swear (or affirm) that the evidence you shall give in the case now pending between the State of Kansas and _____, shall be the truth, the whole truth, and nothing but the truth, so help you God." The oath shall be administered by the Secretary.

13. Witnesses shall be examined in chief by the party producing them, and cross-examined in the usual form.

14. If a Senator be called as witness, he shall be sworn, and give his testimony standing in his place.

15. If a Senator wish a question put to a witness, it shall be reduced to writing and put by the President.

16. Upon the return day of the summons, a day shall be fixed by the Senate, not less than three days from said return day, for the trial of the impeachment. Should it be made to appear upon the said return day, by affidavit of the party impeached, or one of the managers of the impeachment, that essential witnesses for the prosecution or defense cannot be present, from sickness, absence, or other disability, the Senate may grant commissioners to take the depositions of such witnesses, and assign the trial of said impeachment for such day as shall seem reasonable and just.

SENATE CHAMBER

Monday, February 24, A. D. 1862, 2 o'clock, P. M. }

Senate called to order.

President in the chair.

The following communication to the President was read by the Secretary :

TOPEKA, February 24th, 1862.

Hon. J. P. Root, President of the Senate of the State of Kansas :

SIR :—The undersigned have the honor to inform the Senate that they have been retained as counsel for Hon. John W. Robinson, Secretary of State, and that they are now present, ready to appear for him, and make answer to any Articles of Impeachment which may be exhibited against him by the House of Representatives before the Senate, when sitting as a Court of Impeachment, and duly sworn in the manner prescribed by the Constitution of the State.

We have the honor to be,
Most respectfully,
Your Obedient serv'ts.,

WILSON SHANNON,
F. P. STANTON,
N. P. CASE.

The Sergeant-at-Arms having returned the following writ of summons against John W. Robinson, the following oath was administered to him by the Secretary of the Senate :

“ You do solemnly swear that the return made and subscribed by you upon the process issued on the 22d day of February by the Senate of the State of Kansas, against John W. Robinson is truly made, and that you have performed said service as therein described, so help you God.”

Court of Impeachments, }
State of Kansas. } as.

The Senate of the State of Kansas, To John W. Robinson,
Greeting :

Whereas, the House of Representatives of Kansas did, on the 20th day of February, exhibit to the Senate, Articles of Impeachment against you, the said John W. Robinson, in the words following :

(Here follows the Articles of Impeachment as set out in a former part of these proceedings.)

And did demand that you, the said John W. Robinson, should be put to answer the accusations as set forth in said Articles, and that such proceedings might be had agreeable to law and justice. You, the said John W. Robinson, are hereby summoned to be and appear before the Senate of the State of Kansas, at their chamber in Topeka, on the 24th day of February, then and there to answer to the said Articles of Impeachment, and then and there to obey and perform such orders and judgment as the Senate of the State of Kansas shall make in the premises, according to the Constitution of the State. Hereof fail not.

Witness,

J. P. ROOT.

President of the Senate.

Done at Topeka, this 23d day of February, A. D. 1862.

Attest:—A. R. BANKS,

Secretary of the Senate.

Court of Impeachments, } ss.
State of Kansas.

The Senate of the State of Kansas, To J. Pigman, Greeting :

You are hereby commanded to deliver to and leave with John W. Robinson, if he can be found, a true and attested copy of the within writ of summons, together with a copy of this precept, showing him both, or in case he cannot with convenience be found, then you are to leave true and attested copies of the said summons and precept at his usual residence, or place of business; and in whatever way the service is performed, let it be done at least one day before the appearance day mentioned in the said writ of summons; thereof fail not, and make return of this writ of summons and precept with your proceedings endorsed thereon, on or before the appearance day named in said summons.

Witness :

J. P. ROOT,

President of the Senate.

Done at Topeka, this 22d day of February, A. D. 1862,

Attest:—A. R. BANKS,

Secretary of the Senate.

[ENDORSED.]

I hereby certify that I served the within precept and writ of summons on John W. Robinson, by delivering to him a correct copy on the 22d day of February, A. D. 1862, at 11 o'clock A. M.

J. S. PIGMAN,
Sergeant-at-Arms of the Senate.

Returned and filed this 24th day of February, A. D. 1862.

A. R. BANKS,
Secretary of the Senate.

Mr. Ingalls moved that the Senate do now resolve itself into a High Court of Impeachment.

Carried.

The President announced "the High Court of Impeachment for the State of Kansas now in session."

The Secretary proceeded to administer the following oath to the President:

"You do solemnly swear that in all things pertaining to the trial of the Impeachment of John W. Robinson, you will do impartial justice, according to the law and the evidence."

Whereupon Messrs. Bancroft, Broadhead, Connell, Curtis, Denman, Essick, Gunn, Hoffman, Holliday, Hubbard, Ingalls, Lambdin, Lynde, McDowell, Morrow, Osborn, Rees, Roberts, Spriggs and Stevens took the following oath, which was administered by the President:

"You do solemnly swear that in all things pertaining to the trial of the impeachment of John W. Robinson, you will do impartial justice, according to the law and the evidence."

Mr. Sleeper took the following affirmation, which was administered by the President:

"You do solemnly affirm that in all things pertaining to the trial of the impeachment of John W. Robinson, you will do impartial justice, according to the law and the evidence."

Hon. Wilson Shannon, counsel for the defendant, moved the Court that the Senator from Johnson, (Mr. Keeler,) be sent for by

the Court, and that he be required to take the oath prescribed by the Constitution.

Upon which, the yeas and nays being taken, the vote resulted as follows :

Ayes 15. Noes 4.

Ayes—Bancroft, Broadhead, Connell, Curtis, Essick, Gunn, Hoffman, Holliday, Hubbard, Lynde, Morrow, Rees, Roberts, Spriggs, Stevens.

Nays—Ingalls, McDowell, Osborn, Sleeper.

And so the motion prevailed, and the Sergeant-at-Arms was sent for Mr. Keeler.

Sergeant-at-Arms returned with Mr. Keeler, when the President administered to him the following oath :

“ You do solemnly swear that in all things pertaining to the trial of the impeachment of John W. Robinson, you will do impartial justice, according to the law and the evidence.

The Hon. Fred. P. Stanton, counsel for the defendant, John W. Robinson, presented the following plea in his behalf :

Court of Impeachments.	}	Plea.
The State of Kansas,		
vs.		
John W. Robinson, Sec. of State.)	

And the said John W. Robinson, Secretary of State of the State of Kansas, by his Attorneys, Wilson Shannon, Frederick P. Stanton, and Nathan P. Case, comes here into Court, and praying leave of the Court to save, and to reserve to himself the same right of objection to all or any of the foregoing charges against him, preferred by the Honorable, the House of Representatives, of the State, which he might or would have in case a demurer to the same were here filed, and not confessing or admitting the constitutional authority of the Court in the premises, or the sufficiency in law of all or any of the said charges for the purpose intended, says he is not guilty of the said supposed high crimes and misdemeanors in office, or any of them laid to his charge, in manner and form, as

the Honorable, the House of Representatives have, above thereof in and by the said charges, complained against him.

JOHN W. ROBINSON,
Secretary of State, &c.,

By his Attorneys,

WILSON SHANNON,
F. P. STANTON,
NATHAN P. CASE.

Hon. S. A. Stinson, counsel for the State, offered the following motion :

The managers, on the part of the House of Representatives, do now move that the Court adjourn until to-morrow at 4 o'clock, P. M., in order that they may present the plea of the defendant to the House, and receive their instructions.

Upon which the vote was taken with the following result:

Ayes 20. Noes 1.

Ayes—Broadhead, Connell, Curtis, Essick, Gunn, Hoffman, Holliday, Hubbard, Ingalls, Keeler, Lambdin, Lynde, McDowell, Morrow, Osborn, Rees, Roberts, Sleeper, Spriggs, Stevens.

Noes—Bancroft.

And so the motion prevailed, and the Court adjourned until to-morrow, 4 o'clock P. M.

SENATE CHAMBER, }
Tuesday, February 25, 4 o'clock. }

The High Court of Impeachment being in session, Messrs. Barnett, Denman and Lappin appeared and took the following oath, which was administered by the President :

"You do solemnly swear that in all things pertaining to the trial of the impeachment of John W. Robinson, you will do impartial justice, according to the law and the evidence."

Hon. S. A. Stinson, on behalf of the managers, moved the Court to adjourn until to-morrow at 10 A. M., for the purpose of permitting

the managers to complete and perfect their reply to the answer of the defendant.

Upon which the yeas and nays were taken, with the following result :

Ayes 22. Nays 2.

Ayes—Bancroft, Barnett, Broadhead, Connell, Curtis, Denman, Gunn, Hoffman, Holliday, Hubbard, Ingalls, Keeler, Lambdin, Lappin, McDowell, Morrow, Osborn, Rees, Roberts, Sleeper, Spriggs, Stevens.

Noes—Bancroft, Lynde.

And so the motion to adjourn prevailed.

SENATE CHAMBER,
Wednesday, Feb. 26, 1862, 10 o'clock, A. M. }

Court assembled.

The President presiding.

Hon. S. A. Stinson, on behalf of the managers, presented the following *Replication*, to the Plea of the Defendant :

Replication by the House of Representatives of the State of Kansas to the plea of John W. Robinson, Secretary of State, exhibited against him by the House of Representatives.

The House of Representatives, by their managers, reply to the plea of John W. Robinson, Secretary of State heretofore, to the Articles of Impeachment preferred against him, and charge that the said Articles are true, and that the said John W. Robinson is guilty of all and sundry the matters contained in the said Articles of Impeachment, and that the said House of Representatives are ready to prove against him at such convenient time and place as the Senate shall appoint for that purpose.

SAMUEL A. STINSON,
Attorney General.

P. B. PLUMB, AZEL SPAULDING, F. W. POTTER, W. R. WAGSTAFF, DAVIES WILSON,	{ Managers on the part of the House of Representatives. =
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The Hon. Wilson Shannon, counsel for the defendant, presented the following joint motion :

We move the Court to adopt the following Rule, in relation to depositions.

RULE.—That either party may take depositions of witnesses residing out of the State of Kansas, or of persons who cannot be present at the trial from sickness, absence, or other disability, by giving the adverse party the usual notice required by law. All depositions, when so taken, shall be directed to the President of the Senate of the State of Kansas, and by him opened on the written request of either party, or their Attorneys, they may be taken before the same officers and certified in like manner, as required by law in other cases.

February 25th, 1862.

SHANNON, STANTON & CASE,
Attorneys for Defendant.

SAMUEL A. STINSON,
On the part of the Managers.

Upon which the vote was taken with the following result :

Ayes 18. Noes none.

Ayes—Messrs. Bancroft, Barnett, Broadhead, Connell Denman, Esick, Gunn, Hubbard, Lambdin, Lynde, McDowell, Morrow, Osborn, Rees, Roberts, Sleeper, Spriggs, Stevens.

The Hon. S. A. Stinson presented the following motion on behalf of the managers :

The managers move the Court that the trial of John W. Robinson be fixed for the second Monday of April, A. D. 1862.

The Hon. Wilson Shannon moved to amend by striking out "the second Monday of April," and inserting "the first Monday in June" instead.

Hon. S. A. Stinson, on behalf of the managers, submitted the following motion to the Court :

That the Court do now adjourn until half-past seven o'clock, P. M., to-day.

Upon which the vote was taken with the following result :

Ayes 21. Noes none.

Ayes—Messrs. Bancroft, Barnett, Broadhead, Connell, Curtis, Esick, Gunn, Holliday, Hubbard, Ingalls, Keeler, Lambdin,

Lynde, McDowell, Morrow, Osborn, Rees, Roberts, Sleeper, Spriggs, Stevens.

And so the motion to adjourn prevailed.

EVENING SESSION.

February 26, 7 o'clock, P. M.

Court called to order.

The President presiding.

The managers of the House of Representatives appeared at the bar of the Senate, and Mr. Plumb, on their behalf, read the following communication :

MR. PRESIDENT :—The board of managers have been instructed by the House of Representatives to exhibit to the Senate the following Articles of Impeachment against Charles Robinson, Governor, and George S. Hillyer, Auditor, of which the Senate heretofore had notice.

P. B. PLUMB, Chairman.

The following Articles of Impeachment against Charles Robinson were read by the Secretary :

ARTICLES OF IMPEACHMENT

Preferred by the House of Representatives on behalf of themselves and all the people of the State of Kansas, against Charles Robinson Governor of said State, for high misdemeanors in office.

ARTICLE I.

The he, the said Charles Robinson, being Governor of the State of Kansas, was authorized and empowered by the laws of said State as such Governor, to sign certain bonds of said State, issued under the provisions of an act entitled "An act to authorize the State of Kansas to borrow money to repel invasion, suppress insurrection

and to defend the State in time of war," approved May 7th, 1861, to wit: bonds to the amount of twenty thousand dollars; and the said Governor pretending to act under the provisions of said law, did, in violation of his official duty, sign bonds to the amount of forty thousand dollars; that of said bonds, so signed, there were sold and disposed of bonds to the amount of thirty-one thousand dollars, whereby said State was subjected to great pecuniary loss. And the said Charles Robinson as Governor, as aforesaid, was guilty of high misdemeanor in his said office of Governor.

ARTICLE II.

That the said Charles Robinson was, by the law of the said State of Kansas, duly authorized and empowered, together with the Auditor and Secretary of State, of said State, to sell and negotiate certain bonds of said State, the issuance of which was authorized by "An act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State," approved May 1st, 1861, and an act supplemental thereto, approved June 3d, 1861; and whereas, it was provided by law that said bonds should not be sold for less than seventy cents on the dollar, the said Charles Robinson, disregarding said law and his official obligation to said State, did, together with said Auditor and Secretary, conspire with one Robert S. Stevens, to cheat and defraud said State in this: that the said Robinson, as Governor, as aforesaid, did agree and consent that said Stevens should receive a large amount of said bonds, to wit: Bonds to the amount of eighty-seven thousand two hundred dollars to be sold by him, said Stevens, for such price as he might obtain therefor, and that said Stevens should account to and pay over to said State no more than sixty cents on the dollar of the bonds he should so sell, and said Stevens did receive, with the knowledge and consent of said Robinson, the bonds aforesaid of said State, to said amount of eighty-seven thousand two hundred dollars, and said Stevens did sell said bonds to the amount of fifty-six thousand dollars with the knowledge and consent of the said Robinson, for eighty-five cents on the dollar, and paid over and accounted to said State for sixty cents and no more on the dollar of the bonds so sold, whereby the laws of said State were violated, said State defrauded, and the said Robinson was guilty of high misdemeanor in his said office of Governor.

ARTICLE III.

That the said Charles Robinson, as Governor, as aforesaid, agreed and consented that said Stevens should receive and sell said bonds, as aforesaid, paying over and accounting to said State for no more than sixty cents on the dollar, when he, the said Robinson, well knew and understood that said bonds could be sold for said price of eighty-five cents on the dollar, whereby the said Robinson was guilty of high misdemeanor in his said office of Governor of said State.

ARTICLE IV.

That the said Charles Robinson, as Governor, as aforesaid, agreed to and with said Auditor and Secretary of State, that any arrangement which might be made to sell said bonds for sixty cents on the dollar, would receive his sanction, and consent, whereby said Robinson consented and agreed to a violation of the law of said State, and was thereby guilty of high misdemeanor in office.

ARTICLE V.

That the said Charles Robinson, as Governor, as aforesaid, did officially consent to approve of the said aforesaid sale of bonds of the State of Kansas, whereby the said State realized the said sum of sixty per cent. on the dollar, whereby the said Robinson became guilty of a high misdemeanor in office.

And the said House of Representatives, saving and reserving to themselves the liberty of exhibiting at any time hereafter, any further articles or other accusation or impeachment against Charles Robinson, and also of replying to his answers hereto, and of offering proof to all and every one of the aforesaid Articles of Impeachment or accusation, which shall be exhibited to them as the case may require, do demand that the said Charles Robinson may be put to answer the misdemeanors herein charged, and that such proceedings, examination, trials and judgements may be thereupon had and given, as are agreeable to justice.

SAMUEL A. STINSON,
Attorney General.

P. B. PLUMB,	}	<i>Managers on the part of the</i>
AZEL SPAULDING,		
F. W. POTTER,		
W. R. WAGSTAFF,		
DAVIES WILSON,		
		<i>House of Representatives.</i>

The following communication to the President was received and read :

TOPEKA, Feb. 26, 1862.

Hon. J. P. Root, President of the Senate of the State of Kansas :

SIR :—The undersigned have the honor to inform the Senate that they have been retained as counsel for the Hon. Charles Robinson, Governor of this State, and that they are now present and ready to appear for him and make an answer to any Articles of Impeachment which may be exhibited against him by the House of Representatives before the Senate, when sitting as a Court of Impeachment, and duly sworn, in the manner prescribed by the Constitution of the State.

We have the honor to be,
Very respectfully,
Your obedient serv'ts,
WILSON SHANNON,
F. P. STANTON,
NATHAN P. CASE.

The following Articles of Impeachment against George S. Hillyer, Auditor of State, were read by the Secretary :

ARTICLES OF IMPEACHMENT

Exhibited by the House of Representatives of the State of Kansas, for themselves, and on behalf of all the people of said State, against George S. Hillyer, Auditor of said State, in maintenance of their Impeachment against said Hillyer, for high misdemeanor in office.

ARTICLE I.

That the said George S. Hillyer, as Auditor of State of the State of Kansas, was, together with the Secretary of State and Governor of said State, by the laws of said State, authorized and empowered to negotiate and sell the bonds of the State, the issuance of which was provided for in the act authorising the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State, approved May 1st. 1861.

That bonds of the State of Kansas to defray the current expenses of the State as aforesaid, were prepared, executed and issued according to law.

That the said George S. Hillyer, being so empowered to sell and

negotiate said bonds, did authorize and empower one Robert S. Stevens to negotiate and sell said bonds to the amount of eighty-seven thousand two hundred dollars at any price over sixty per centum upon the amount of said bonds, he, said Stevens paying to the State no more than sixty per centum of said amount; that under said agreement, and with the full knowledge and consent of said Hillyer, said Stevens proceeded to sell and deliver a large amount of said bonds, to wit: the amount of fifty-six thousand dollars of said bonds at the rate of eighty-five per centum on said amount of fifty-six thousand dollars, all which was well known to said Hillyer, and under the said agreement with the full knowledge and consent of said Hillyer, said Stevens paid over and accounted to said State for only the amount of sixty per cent. upon said bonds so sold, which said agreement so made and entered into by said Hillyer, was in direct violation of the laws of said State in this: that under said laws, said bonds could not be sold for less than seventy per centum on the amount of said bonds, and was in violation of the official duty of said Hillyer in this: that said State was, by said agreement, defrauded out of its just rights, in that said State was entitled to receive the full amount for which said bonds were sold, while in truth and in fact, with the full knowledge and consent of said Hillyer, said bonds were sold for eighty-five per centum upon the dollar, and the State did not receive therefrom more than sixty per centum upon the bonds so sold, whereby said Hillyer betrayed the trust reposed in him by the State of Kansas, subjected said State to great pecuniary loss, and has thereby been guilty of high misdemeanor in his said office of Auditor of State aforesaid.

ARTICLE II.

That the said George S. Hillyer, as Auditor aforesaid, well knowing that by the laws of said State, said bonds could not legally be sold for less than seventy cents on the dollar, contriving to cheat and defraud said State in the premises, did secretly enter into the agreement above set forth, with said Stevens, by which said Stevens should realize therefrom only sixty cents on the dollar, well knowing at the time he so made said agreement, that said bonds could be sold for eighty-five cents on the dollar, whereby said Hillyer was guilty of high misdemeanor in office.

ARTICLE III.

That said George S. Hillyer, as Auditor, as aforesaid, with the guilty intent to cheat and defraud the State out of its just right in the premises, consented that said Stevens, pretending to act as the agent of said State to sell and negotiate said bonds, should receive the bonds, so as aforesaid entrusted to him for sale, with all the coupons for the semi-annual interest upon said bonds, attached to said bonds, and the said Stevens with the full knowledge and consent of said Hillyer, received said bonds with said coupons thereto attached; and included among the coupons so attached, were coupons for the semi-annual interest due on the amount of said bonds on the first day of January, A. D. 1862, being the first semi-annual interest payable on the amount of said bonds; that said Stevens with the full knowledge of said Hillyer, did not sell and negotiate the bonds so sold by him until after said coupons for the first semi-annual interest became due and payable, to wit: after the first day of January, A. D. 1862, and at the time said bonds so sold as aforesaid, were sold by said Stevens, said Stevens, with the full knowledge and consent of said Hillyer, detached from the said bonds so received by him, the said coupons for the first semi-annual interest upon said bonds which said semi-annual interest had not then accrued against the State, and with the full knowledge and consent of said Hillyer, presented said coupons so attached, to the Treasury of said State, and received from said Treasury, and secured from said Treasury the full amount of the semi-annual interest upon the amount of said bonds so received by him, said Stevens, whereby said Hillyer was guilty of high misdemeanor in his said office.

ARTICLE IV.

That said George S. Hillyer, as Auditor aforesaid, being empowered and authorized to sell and negotiate said bonds, as aforesaid, did, without due authority of law, authorize and empower one Robert S. Stevens, to sell and negotiate said bonds of said State so entrusted to him, and entrusted said bonds to said Stevens for the purpose of selling and negotiating said bonds; that he took no security, or guaranty from said Stevens, that he, said Stevens, would deal fairly and honestly by said State, and to secure the State from loss while said Stevens so held, or negotiated and sold said bonds, whereby said Hillyer was guilty of high misdemeanor in his said office of Auditor of State as aforesaid.

ARTICLE V.

That the said George S. Hillyer, as Auditor of State, as aforesaid, did enter into a conspiracy with John W. Robinson, Secretary of State, and said Robert S. Stevens, to cheat and defraud said State in this: that the said Hillyer, and the said Robinson constituting a majority of those persons authorized by law to sell and negotiate said bonds, conspiring, as aforesaid, with said Stevens, did secretly, in the city of Washington, in the District of Columbia, whither they had gone for the purpose of carrying out and consummating said conspiracy, well knowing at the time that said bonds could be sold for more than the sum of seventy cents on the dollars, and without making any effort to sell or negotiate said bonds, entered into an agreement with said Stevens, constituting and appointing said Stevens the agent for the sale of said bonds, whereby said Stevens was to receive all the proceeds of said bonds above the amount of sixty per centum on the dollar, and the said Hillyer and said Robinson, entrusted to said Stevens, bonds of said State which they were so authorized and empowered to sell to the amount of eighty-seven thousand two hundred dollars, to be sold and negotiated by him under the agreement aforesaid, and said Hillyer well knew that at the time said agreement was so made as aforesaid, and it was so understood between them, that said bonds could be sold to the Government of the United States at the rate of eighty-five per centum on the dollar, and the said Stevens thereafter, with the full knowledge and consent of said Hillyer proceeded to sell and did sell said bonds to the amount of fifty-six thousand dollars at the rate of over seventy per centum on the dollar, to wit: at the rate of eighty-five cents on the dollar, and with the full knowledge and consent of said Robinson and Hillyer, did receive for bonds, so sold, payment at the rate of eighty-five cents on the dollar of said amount, to wit: the sum of forty-seven thousand six hundred dollars; which said amount the said State was entitled to receive for said bonds, but the said Stevens, acting under said agreement heretofore set forth between him and the said Robinson and Hillyer, and in carrying out said conspiracy, to cheat and defraud said State, paid over to said State, as the full amount to which said State was entitled, only the sum of thirty-five thousand six hundred dollars, being only sixty per centum upon the amount of bonds, so by said Stevens sold, as aforesaid, whereby said State was cheated and de-

frauded by said conspiracy, out of the sum of fourteen thousand dollars, whereby said George S. Hillyer was guilty of high misdemeanor in his said office.

ARTICLE VI.

And the said George S. Hillyer, as Auditor of State, as aforesaid, further conspiring to cheat and defraud said State, did enter into a conspiracy with said Stevens, and Robinson, whereby the coupons upon the bonds of said State, so as aforesaid received by said Stevens, were received upon said bonds as set forth in Article 3, of these Articles; and that the said Stevens in receiving the amount of said coupons as set forth in said Articles, acted in accordance with a preconcerted design formed with said Hillyer, and said Robinson, to cheat and defraud said State, whereby said State suffered great pecuniary damage and loss, and whereby said George S. Hillyer was guilty of high misdemeanor in office.

ARTICLE VII.

That the said George S. Hillyer, as Auditor, as aforesaid, did, together with Robert S. Stevens, and John W. Robinson, Secretary of State, arrange to go to the city of Washington to assist in the negotiation and sale of the said bonds hereinbefore described, and that he, said Hillyer, did proceed to the city of Washington for the purpose, aforesaid, and that he did then and there represent to James H. Lane, Senator of the State of Kansas, that if said bonds could be sold to the Government of the United States, whatever might be realized from said sale would enure to the benefit of the State of Kansas, and by his said representations induced said Lane to use his influence to assist in said sale, and he, said Hillyer, also represented that said sale was to be made by the State officers, and said Lane was further induced to lend his said influence by the pledge and promise of said Hillyer as Auditor, as aforesaid, that every dollar realized from said sale should be paid into the State Treasury, and that in inducing said Lane to lend his assistance to effect said sale, he suppressed and concealed entirely the arrangement heretofore set forth, by which said Stevens was to receive all over sixty cents on the dollar of said bonds. All of which representations and pledges of said Hillyer were intentionally false, in this: that at the time he so made said representations and pledges, the said Hillyer was acting for the purpose of forwarding an agreement, in these Articles hereinbefore set forth, by which said Stevens was to

receive all over sixty cents on the dollar of said bonds, and said sale was effected under said representations and pledges, as aforesaid, contrary to law, and to the great pecuniary damage of the State, as hereinbefore set forth; whereby said George S. Hillyer was guilty of high misdemeanor in office.

And the House of Representatives of said State of Kansas, saving and reserving to themselves the liberty of exhibiting at any time hereafter any further articles or other accusation or impeachment against said George S. Hillyer, and also of replying to his answers hereto, and of offering proof to all and every one of the aforesaid articles, and to all and every other articles of impeachment or accusation, which shall be exhibited by them, as the case may require, do demand that the said Geo. S. Hillyer may be put to answer the misdemeanors herein charged, and that such proceedings, examination, trials and judgments may be thereupon had and given as are agreeable to justice.

SAMUEL A. STINSON,
Attorney General.

P. B. PLUMB, AZEL SPAULDING, F. W. POTTER, W. R. WAGSTAFF, DAVIES WILSON,	}	<i>Managers on the part of the House of Representatives.</i>
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The following communication to the President was received and read :

TOPEKA, February 27th, 1862.

Hon. J. P. Root, President of the Senate of the State of Kansas :

SIR :—The undersigned have the honor to inform the Senate that they have been retained as counsel for Hon. George S. Hillyer, Auditor of State for the State of Kansas, and that they are now present, and ready to appear for him, and make answer to any Articles of Impeachment which may be exhibited against him by the House of Representatives before the Senate, when sitting as a Court of Impeachment, and duly sworn in the manner prescribed by the Constitution of the State.

We have the honor to be,
Very respectfully,
Your Obedient serv'ts.,

WILSON SHANNON,
F. P. STANTON,
NATHAN P. CASE.

The hour having arrived to which the Court adjourned, the President announced the "High Court of Impeachment for the State of Kansas is now in session."

The Secretary proceeded to administer the following oath to the President :

"You do solemnly swear that in all things pertaining to the trial of the Impeachment of Charles Robinson, you will do impartial justice, according to the law and the evidence."

Whereupon Messrs. Barnett, Bancroft, Broadhead, Connell, Curtis Denman, Essick, Gunn, Holliday, Hubbard, Ingalls, Keeler, Lambdin, McDowell, Morrow, Osborn, Rees, Roberts, Spriggs and Stevens took the following oath, which was administered by the President :

"You do solemnly swear that in all things pertaining to the trial of the impeachment of Charles Robinson, you will do impartial justice, according to the law and the evidence."

Mr. Sleeper took the following affirmation, which was administered by the President :

"You do solemnly affirm that in all things pertaining to the trial of the impeachment of Charles Robinson, you will do impartial justice, according to the law and the evidence."

And thereupon the Secretary administered the following oath to the President :

"You do solemnly swear that in all things pertaining to the trial of the impeachment against George S. Hillyer, you will do impartial justice according to the law and the evidence."

Whereupon, Messrs. Bancroft, Barnett, Broadhead, Connell, Curtis, Denman, Essick, Gunn, Holliday, Hubbard, Ingalls, Keeler, Lambdin, McDowell, Morrow, Osborn, Rees, Roberts, Spriggs and Stevens took the following oath, which was administered by the President :

"You do solemnly swear that in all things pertaining to the trial of the impeachment of George S. Hillyer, you will do impartial justice, according to the law and the evidence."

Mr. Sleeper took the following affirmation, which was administered by the President :

"You do solemnly affirm that in all things pertaining to the trial of the impeachment of George S. Hillyer, you will do impartial justice, according to law and the evidence."

Hon. Wilson Shannon, counsel for Charles Robinson and George S. Hillyer, defendants, waived service except so much as required the Secretary to furnish copies of the Articles of Impeachment exhibited by the House of Representatives to the Senate against them.

Hon. Wilson Shannon, counsel for the defendants, filed the following Plea to the Articles of Impeachment against Charles Robinson :

Court of Impeachments.	}	Plea.
The State of Kansas,		
vs.		
Charles Robinson, Governor of said State.		

And the said Charles Robinson, Governor of the State of Kansas, by his Attorneys, Wilson Shannon, Frederick P. Stanton, and Nathan P. Case, comes here into Court, and praying leave of the Court to save, and to reserve to himself the same right of objection to all or any of the foregoing charges against him, preferred by the Honorable, the House of Representatives, of the State, which he might or would have in case a demurer to the same were here filed, and not confessing or admitting the constitutional authority of the Court in the premises, or the sufficiency in law of all or any of the said charges for the purpose intended, says he is not guilty of the said supposed high crimes and misdemeanors in office, or any of them above laid to his charge, in manner and form, as the Honorable, the House of Representatives have, above thereof in and by the charges, complained of against him.

CHARLES ROBINSON,
Governor.

February 26, 1862.

By his Attorneys,

WILSON SHANNON,
F. P. STANTON,
NATHAN P. CASE.

Hon. Wilson Shannon, counsel for the defendant, filed the following Plea to the Articles of Impeachment against George S. Hillyer :

The State of Kansas,	} ss.	
County of Shawnee.		
Court of Impeachment,	} Plea.	
The State of Kansas,		
vs.		
Geo. S. Hillyer, Auditor of State.		

And the said George S. Hillyer, Auditor of State of the State of Kansas, by his Attorneys, Wilson Shannon, Frederick P. Stanton, and Nathan P. Case, comes here into Court, and praying leave of the Court to save and reserve to himself the same right of objection to all or any of the foregoing charges against him, preferred by the Honorable, the House of Representatives of the State, which he might or would have in case a demurer to the same were here filed, and not confessing or admitting the constitutional authority of the Court in the premises, or the sufficiency in law of all or any of the said charges for the purpose intended, says he is not guilty of the said supposed high crimes and misdemeanors in office or any of them above laid to his charge in manner and form, as the Honorable, the House of Representatives have above thereof in and by the charges complained of against him.

GEORGE S. HILLYER.

February 27, 1862.

By his Attorneys,
WILSON SHANNON,
FREDERICK P. STANTON,
NATHAN P. CASE.

Hon. S. A. Stinson, on the part of the managers submitted the following resolutions :

MR. PRESIDENT :—The managers on the part of the House of Representatives present the following resolutions, and move their adoption :

Resolved, 1st. This Court shall always be open for the purpose of filing additional Articles of Impeachment against any or all of the persons impeached, or other pleadings, for the purpose of filing preceses for witnesses, the issuing of summons, and all interlocutory matters which may require only the action of the officers of the Court.

2d. The board of managers may, at any time before trial, file additional Articles of Impeachment, of which filing the party against whom said Articles shall be filed, or his counsel shall have notice and a copy of such additional Articles, and the said party shall plead thereto within six days after the filing of said Articles, unless the same shall be filed when this Court is in session; and in that case, the said party shall have such time to plead thereto as the Court shall direct.

And the question being, "shall the resolutions be adopted?" the vote resulted as follows:

Ayes—Messrs. Bancroft, Barnett, Broadhead, Connell, Curtis, Denman, Essick, Gunn, Holliday, Hubbard, Ingalls, Keeler, Lambdin, McDowell, Morrow, Osborn, Rees, Roberts, Sleeper, Spriggs, Stevens—21,

And so the resolutions were adopted.

Hon. S. A. Stinson, on the part of the managers, withdrew the motion that he offered this morning in relation to the time of commencing the trial of John W. Robinson on the first Monday in April next.

Hon. S. A. Stinson, on the part of the managers, submitted the following motion:

Moved, that this Court will proceed to the trial of the impeachment of John W. Robinson the first Monday of June, A. D. 1862, and to the trial of George S. Hillyer on the first Thursday, 1862, and to the trial of Charles Robinson on the second Monday of June, 1862.

Hon. Wilson Shannon, counsel for defendants, moved to amend by striking out all in said motion which relates to the trial of Charles Robinson.

Upon which the vote resulted as follows:

Ayes—Bancroft, Broadhead, Essick, Gunn, Holliday, Ingalls, Morrow, Roberts, Stevens—9.

Noes—Connell, Curtis, Denman, Hubbard, Keeler, Lambdin, McDowell, Osborn, Rees, Sleeper, Spriggs—11.

And so the motion did not prevail.

Mr. Ingalls moved that the Court do now adjourn until Friday at 7 o'clock, P. M.

Upon which the vote was as follows :

Ayes 13. Noes 7.

Ayes—Messrs. Bancroft, Barnett, Broadhead, Connell, Curtis, Denman, Essick, Gunn, Ingalls, Lambdin, McDowell, Osborn, Sleeper.

Noes—Messrs. Holliday, Hubbard, Keeler, Morrow, Roberts, Spriggs, Stevens.

And so the motion prevailed.

SENATE CHAMBER,
Friday, February 28, A. D. 1862. }

Court called to order.

The President presiding.

Mr. Ingalls offered the following resolution, which was adopted :

Resolved, That one hundred copies of the Articles of Impeachment, exhibited by the House of Representatives, against Charles Robinson, George S. Hillyer, and John W. Robinson, together with the Answers and Replecations of the parties and managers, and the preliminary proceedings connected therewith, in the House and Senate, be printed for the use of the Legislature.

On motion, the Senate adjourned until to-morrow morning at 10 o'clock.

COURT CHAMBER,
Friday, February 28, 7 o'clock, P. M. }

The Court opened by the following proclamation from the Sergeant-at-Arms :

"O yez! O yez! O yez! The High Court of Impeachment for the State of Kansas, is now in session."

Members present :

Messrs. Bancroft, Barnett, Broadhead, Connell, Curtis, Essick, Gunn, Holliday, Hubbard, Ingalls, Keeler, Lambdin, McDowell, Morrow, Osborn, Rees, Roberts, Sleeper, Spriggs and Stevens.

Present—Hon. S. A. Stinson, and the Board of Managers on the part of the House of Representatives.

Charles Robinson appeared in person, and George S. Hillyer, and John W. Robinson appeared by his Attorney, Nathan P. Case, Esq.

Nathan P. Case, counsel for the defendants, submitted the following motion :

The State of Kansas,	}	Court of Impeachment.
vs.		
George S. Hillyer, Auditor of State.		

The defendant, by his attorneys, move the Court here that the Sergeant-at-Arms be ordered to bring into Court, Hon. E. Lynde and Hon. S. E. Hoffman, that they may be sworn as members of the Court.

SHANNON, STANTON & CASE,
Attorneys for Defendants.

Upon which the vote was taken with the following result :

Ayes 19. Noes none.

Ayes—Bancroft, Barnett, Broadhead, Connell, Curtis, Gunn, Holliday, Hubbard, Keeler, Lambdin, Lynde, McDowell, Morrow, Osborn, Rees, Roberts, Sleeper, Spriggs, Stevens.

And so the motion prevailed.

Mr. Lynde appeared and took the following oath, which was administered by the President :

“You do solemnly swear that in all things pertaining to the trial of the impeachment against Charles Robinson, you will do impartial justice according to the law and evidence.”

Mr. Lynde took the following oath which was administered by the President :

“You do solemnly swear that in all things pertaining to the trial of the impeachment against George S. Hilleyer, you will do impartial justice according to the law and evidence.”

Hon. F. W. Potter, on the part of the managers, filed the following Replication to the pleas in the case of Charles Robinson :

Replication of the House of Representatives of the State of Kansas to the plea of Charles Robinson, Governor of said State, to the Articles of Impeachment exhibited against said Charles Robinson by said House of Representatives.

Now comes the said House of Representatives, by its managers, and saving all manner of exceptions to the form and sufficiency of said plea, and that the said Charles Robinson is guilty of the charges preferred against him in said Articles of Impeachment, in the manner and form therein alleged, and this they are ready to make appear to the Senate by proof, at such time and place as the Senate shall direct.

SAMUEL A. STINSON,
Attorney General.

P. B. PLUMB, AZEL SPAULDING, F. W. POTTER, W. R. WAGSTAFF, DAVIES WILSON,	}	<i>Managers on the part of the House of Representatives.</i>
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Hon. F. W. Potter, on the part of the managers, filed the following Replication to the plea in the case of George S. Hillyer :

Replication of the House of Representatives of the State of Kansas, to the plea of George S. Hillyer, to the Articles of Impeachment heretofore exhibited against George S. Hillyer by said House of Representatives.

Now comes the said House of Representatives, by its managers, and saving all manner of exceptions to the form and sufficiency of said plea, say that the said George S. Hillyer is guilty of all and singular, the misdemeanors charged in the said Articles of Impeachments, in the manner and form therein set forth; and this they are ready to make appear by proof, at such time and place as the Senate shall order.

S. A. STINSON,
Attorney General.

P. B. PLUMB, W. R. WAGSTAFF, F. W. POTTER, AZEL SPAULDING, DAVIES WILSON,	}	<i>Managers on the part of the House of Representatives.</i>
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Nathan P. Case, Esq., counsel for the defendants, offered the following amendment to the motion offered on Wednesday last by Hon. S. A. Stinson :

On question of continuance, the defendants, by their Attorneys, move the Court now that the question be taken in each case separately.

SHANNON, STANTON & CASE,
Attorneys for Defendants.

February 28th, 1862.

Nathan P. Case, Esq., counsel for the defendants, moved the Court that Mr. Hoffman be now sworn.

Mr. Hoffman took the following oath which was administered by the President :

"You do solemnly swear that in all things pertaining to the trial of the impeachment against Charles Robinson, you will do impartial justice, according to the law and evidence."

Mr. Hoffman took the following oath, which was administered by the President :

"You do solemnly swear that in all things pertaining to the trial of the impeachment against George S. Hillyer, you will do impartial justice, according to the law and the evidence."

Nathan P. Case, counsel for the defendants, withdrew his motion to amend the motion offered by Hon. S. A. Stinson on Wednesday.

Mr. Ingalls submitted the following amendment to Hon. S. A. Stinson's motion introduced on Wednesday, and moved its adoption :

"I move that the Impeachment of Charles Robinson, Governor, George S. Hillyer, Auditor, and John W. Robinson, Secretary of State, be set for trial on Wednesday, the 14th day of May, A. D. 1862."

J. J. INGALLS.

The President decided that under the precedent already set by the Senate, this motion could not be entertained until the original motion was disposed of.

Mr. Ingalls withdrew his motion.

The question then recurring upon the original motion offered by Hon. S. A. Stinson, introduced on Wednesday last,

Upon which a vote was taken with the following result :

Ayes 12. Noes 9.

Ayes—Messrs. Bancroft, Connell, Curtis, Gunn, Holliday, Hubbard, Lambdin, Lynde, McDowell, Rees, Stevens.

Noes—Messrs. Barnett, Broadhead, Essick, Hoffman, Ingalls, Morrow, Osborn, Sleeper, Spriggs.

And so the motion of Hon. S. A. Stinson prevailed.

Hon. S. A. Stinson, on the part of the managers of the House of Representatives, offered the following motion :

The managers move the Court that the following Rule be adopted :

“That the Assistant Secretary of the Senate is empowered to issue subpoenas to either party, in the absence of the Secretary of the Senate, upon the written precepts of either party.”

Upon which the vote was taken with the following result :

Ayes—Barnett, Bancroft, Broadhead, Connell, Curtis, Denman, Gunn, Hoffman, Holliday, Hubbard, Ingalls, Keeler, Lambdin, McDowell, Morrow, Rees, Roberts, Spriggs—18.

Noes—Essick, Lynde, Osborn, Sleeper, Stevens—5.

And so the motion prevailed.

Hon. S. A. Stinson submitted the following motion :

“On the part of the managers of the House of Representatives,

“We move the Court to adjourn until the first Monday of June, A. D. 1862, at 12 o'clock.”

Upon which a vote was taken, with the following result :

Ayes 11. Noes 12.

Ayes—Bancroft, Connell, Curtis, Keeler, Lambdin, McDowell, Rees, Roberts, Spriggs, Stevens.

Noes—Bancroft, Broadhead, Denman, Essick, Hoffman, Holliday, Hubbard, Ingalls, Lynde, Morrow, Osborn, Sleeper.

Motion was lost.

Upon request, the President called for a vote of the court upon the question—whether the Court will permit amendments to motions or not ?

Upon which the roll was called with the following result :

Ayes 6. Noes 16.

Ayes—Messrs. Barnett, Essick, Holliday, Hubbard, Lynde, Osborn.

Noes—Messrs. Bancroft, Broadhead, Connell, Curtis, Denman, Gunn, Hoffman, Keeler, Lambdin, McDowell, Morrow, Rees, Roberts, Sleeper, Spriggs, Stevens.

And so the Court decided that amendments to motions should not be entertained.

Mr. Ingalls offered the following motion :

“ I move that the Court do now adjourn until 7 o'clock, on Tuesday next.”

Upon which a vote was taken with the following result :

Ayes 11. Noes 12.

Ayes—Messrs. Essick, Hoffman, Holliday, Hubbard, Ingalls, Lynde, Osborn, Rees, Roberts, Sleeper, Spriggs.

Noes—Messrs. Bancroft, Barnett, Broadhead, Connell, Curtis, Denman, Gunn, Keeler, Lambdin, McDowell, Morrow, Stevens,

And so the motion did not prevail.

Hon. S. A. Stinson, on the part of the Managers, submitted the following motion :

“ We move that the Court do now adjourn to the first Monday of June next, at 11 o'clock, A. M.”

Upon which a vote was taken with the following result :

Ayes—Messrs. Brancroft, Broadhead, Connell, Curtis, Denman, Gunn, Keeler, Lambdin, McDowell, Morrow, Rees, Roberts, Spriggs, Stevens—14.

Noes—Messrs. Barnett, Essick, Hoffman, Holliday, Hubbard, Ingalls, Lynde, Osborn, Sleeper—9.

Motion prevailed.

And the President announced the Court adjourned until the first Monday in June next, at 11 o'clock, A. M.

AMENDED RULES TO BE OBSERVED IN CASES OF IMPEACHMENT.

1. When the Senate shall receive notice from the House of Representatives that Managers are appointed on their part to conduct an Impeachment against any person, and are directed to carry such articles to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment agreeably to said notice.

2. When the managers of an impeachment shall be introduced to the bar of the Senate, and shall have signified that they are ready to exhibit articles of impeachment against any persons, the President of the Senate shall inform the managers that the Senate is ready to receive the same, after which they shall be read and delivered, and the President shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

3. Thereupon a summons shall issue, directed to the person or persons impeached, in the manner following:

COURT OF IMPEACHMENT.

The Senate of the State of Kansas, to ————— Greeting:

WHEREAS, The House of Representatives of Kansas, did, on the ——— day of ———, exhibit to the Senate articles of impeachment against you, the said ———, in the words following, (here recite the articles,) and did demand that you the said ——— should be put to answer the accusationsasset forth in said articles, and that such proceedings might be had agreeable to law and justice. You, the said ———, are hereby summoned to be and appear before the Senate of the State of Kansas, at their Chamber in Topeka, on the ——— day of ———, then and there to answer to the said articles of impeachment, and then and there to obey and perform such orders and judgment as the Senate of the State of Kansas shall make in the premises according to the Constitution of the State. Hereof fail not.

Witness ———, President of the Senate, at Topeka, this
—— day ———.

PROCEEDINGS IN THE

The said summons shall be attested by the Secretary of the Senate, and served by the Sergeant-at-Arms, or such other person as the Senate shall specially appoint for that purpose who shall serve the same in accordance with the forms next hereafter given.

4. A precept shall be indorsed on said writ of summons as follows—

Court of Impeachment, }
State of Kansas. } ss.

The Senate of the State of Kansas to _____, Greeting:—

You are hereby commanded to deliver and leave with _____, if he can be found, a true and attested copy of the within writ of summons, together with a copy of this precept, showing him both, or in case he cannot with convenience be found, then you are to leave true and attested copies of the said summons and precept, at his usual residence or place of business, and in whatsoever way the service is performed, let it be done at least _____ days before the appearance day mentioned in the said writ of summons, thereof fail not, and make return of this writ of summons and precept, with your proceedings endorsed thereon, on or before the appearance day named in said summons.

Witness _____, President of the Senate, at Topeka, this _____ day of _____; which precept shall be attested by the Secretary of the Senate.

5. Subpoenas shall be issued by the Secretary of the Senate, upon application of the managers of the impeachment or of the party impeached, or of his counsel in the following form, to wit:

To _____, Greeting:—

You and each of you are hereby commanded to appear before the Senate of the State of Kansas on the _____ day of _____, then and there to testify your knowledge in the cause which is before the Senate, in which the House of Representatives have impeached _____. Hereof fail not.

Witness _____, President of the Senate, this _____ day of _____; which shall be attested by the Secretary.

The subpoena shall be directed to the proper officer of the Senate, in the manner following, to wit:—

THE SENATE OF THE STATE OF KANSAS,

To the Sergeant-at-Arms:

You are hereby commanded to serve and return the within subpoena, according to law.

Dated at Topeka, this — day of — A. D. —

6. The President of the Senate shall direct all forms of proceeding not specially provided for by the Senate; he shall also be authorized to employ such assistance as may be necessary to serve all process required during the trial.

7. At twelve o'clock of the day appointed for the return of the summons against the person impeached, the Legislative and Executive business of the Senate shall be suspended, and the Secretary shall administer an oath to the returning officer as follows: "You do solemnly swear that the return made and subscribed by you upon the process issued on the — day of —, by the Senate of the State of Kansas, against —, is truly made, and that you have performed said service as therein described, so help you God;" which oath shall be entered at large upon the records.

8. The person or persons impeached shall then appear and answer the articles of impeachment against him. If he appear in person or by Attorney, it shall be recorded; the record stating the person appearing, and the capacity in which he appears. If there be no appearance in person or by Attorney, the fact shall also be recorded.

9. At twelve o'clock of the day appointed for the trial of an impeachment, the Legislative and Executive business of the Senate shall be postponed. The Secretary shall then administer the following oath to the President: "You do solemnly swear that in all things pertaining to the trial of the impeachment of —, you will do impartial justice, according to the law and the evidence."

The President shall administer the same oath to each Senator present; after which the Secretary shall notify the House of Representatives, or the person or persons who may have been chosen by the House of Representatives, to represent said House of Representatives upon the trial, that the Senate is ready to proceed upon the impeachment of —, in the Senate Chamber of the State of Kansas.

10. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

11. All motions made by the managers, the parties or their counsel, shall be in writing, directed to the President, read by the Secretary, and decided by yeas and nays without debate, by the Senate, all of which shall be entered on the records.

12. Witnesses shall be sworn in the manner following:—"You do solemnly swear (or affirm) that the evidence you shall give in the case now pending between the State of Kansas and _____, shall be the truth, the whole truth, and nothing but the truth, so help you God." The oath shall be administered by the Secretary.

13. Witnesses shall be examined in chief by the party producing them, and cross-examined in the usual form.

14. If a Senator be called as witness, he shall be sworn, and give his testimony standing in his place.

15. If a Senator wish a question put to a witness, it shall be reduced to writing and put by the President.

16. Upon the return day of the summons, a day shall be fixed by the Senate, not less than three days from said return day, for the trial of the impeachment. Should it be made to appear upon the said return day, by affidavit of the party impeached, or one of the managers of the impeachment, that essential witnesses for the prosecution or defense cannot be present, from sickness, absence, or other disability, the Senate may grant commissioners to take the depositions of such witnesses, and assign the trial of said impeachment for such day as shall seem reasonable and just.

17. That either party may take depositions of witnesses residing out of the State of Kansas, or of persons who cannot be present at the trial from sickness, absence or other disability, by giving the adverse party the usual notice required by law. All depositions when so taken shall be directed to the President of the Senate of the State of Kansas, and by him opened on the written request of either party, or their Attorneys; they may be taken before the same officers and certified in like manner, as required by law in other cases.

18. This Court shall always be open for the purpose of filing additional Articles of Impeachment against any or all of the persons impeached, or other pleadings; for the purpose of filing preceses for witnesses, the issuing of summons, and all interlocutory matters which may require only the action of the officers of the Court.

19. The Board of Managers may, at any time before trial, file additional Articles of Impeachment, of which filing the party against whom said Articles shall be filed, or his counsel, shall have notice and a copy of such additional Articles, and the said party shall plead thereto within six days after the filing of said Articles, unless the same shall be filed when this Court is in session; and in that case, the said party shall have such time to plead thereto as the Court shall direct.

20. The Assistant Secretary of the Senate is empowered to issue subpoenas to either party, in the absence of the Secretary of the Senate, upon the written precept of either party.

21. Amendments to motions shall not be entertained by the Court.

Court of Impeachment.

FIRST DAY.

COURT CHAMBER, TOPEKA, }
June 2d, 1862, 11 o'clock, A. M. }

High Court of Impeachment for the State of Kansas opened with the following proclamation by the Sergeant-at-Arms :

Oyez! Oyez! Oyez! The High Court of Impeachment is now open.

The Associate Secretary, C. K. Gilchrist, called the Senate to order.

The roll being called, the following Senators responded :

Messrs Barnett, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowls, Lambdin, Lappin, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs—15.

Absent—Messrs. Connell, Curtis, Denman, Hoffman, Lynde, McDowell, Morrow and Stevens—8.

Mr. Osborn presented the credentials of Hon. John Bayless, Senator elect from the 1st Senatorial District, and moved that he receive the oath of office. Upon which, the ayes and noes being demanded, the vote resulted as follows :

Yeas—Messrs. Barnett, Essicks, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, Osborn, Rankin, Rees, Roberts, Sleeper, and Spriggs—15, and so the motion prevailed.

N. P. Case, one of Counsel for the Defense, objected to Mr. Bayless being sworn in as a Senator.

Mr. Ingalls.—No one can be permitted to debate the preliminary questions of organization but Senators, they being, under the constitution, the sole judges of the election and qualifications of their own members. The Attorney for the Defense cannot be allowed to proceed, and if he continues his impertinent and unwarrantable interference with our deliberations, the Sergeant-at-Arms must be directed to conduct the intruder without the bar of the Senate.

The Secretary hereupon called Mr. Case to order, but as he insisted on being heard, the Sergeant-at-Arms was ordered to eject Mr. Case from the Senate, which was accordingly done.

Hon. John Bayless appeared and took the following oath :

The State of Kansas, }
County of Shawnee, } ss.

I, John Bayless, do solemnly swear to support the Constitution of the United States and the Constitution of the State of Kansas, and to faithfully discharge the duties of a State Senator of the State of Kansas according to the best of my ability, so help me God.

JOHN BAYLESS.

TOPEKA, June 2, A. D. 1862.

Sworn to before me, and subscribed in my presence, this 2d day of June, A. D. 1862.

JACOB SAFFORD,

Judge of the Third Judicial District, State of Kansas.

Mr. Rees moved that the Court do now adjourn until to-morrow morning at 11 o'clock. Upon which the roll was called with the following result :

Yeas—Burnett, Curtis, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, Osborn, Rankin, Rees, Roberts, Sleeper, Spriggs, Stevens—17,

And so the motion prevailed, and the Court adjourned until 11 o'clock to-morrow morning.

SENATE CHAMBER, }
Tuesday, June 3d, 1862, 11 A. M. }

Senate assembled pursuant to adjournment, the assistant Secretary presiding.

Quorum present.

Mr. Ingalls presented the credentials of S. A. Cobb, Senator elect from the Eighth Senatorial District, and moved that the he receive oath of office.

Mr. Holliday.—Can the Senator from Atchison give any information as to whether this election has been held under the Governor's Proclamation, and as to the number of votes cast?

Mr. Ingalls.—The following documents accompanying the certificate of the Secretary of State, are the only evidence I have upon the matter. That certificate alone is sufficient evidence of the gentleman's right to a seat in this body. For the further information of the Senate, I read the following election returns:

COUNTY CLERKS OFFICE, }
Douglas County, } ss.
State of Kansas. }

The following is a duplicate statement of the number of votes cast at the special election held on the 24th day of March, A. D. 1862, at the within mentioned precincts of the aforesaid County and State, to fill the vacancy in the office of State Senator of 8th Senatorial District as returned to this office by the Board of Canvassers.

PRECINCTS.	STEPHEN A. COBB.
Wakarusa, - - - - -	12 votes.
Clinton, - - - - -	25 "
Eudora, - - - - -	68 "
Willow Springs, - - - - -	82 "
Total number,	187 votes.

In testimony whereof I have hereunto set my hand and official seal at office this 31st day of May, A. D. 1862.



GEO. W. BELL,
County Clerk.

STATE OF KANSAS, }
County of Johnson, } ss.

I, Jesse H. Jackson, County Clerk of Johnson County, do hereby certify that the following is the number of votes cast in the different precincts of Johnson County for State Senator, at an election held on the 24th day of March, A. D. 1862.

PRECINCTS.	STEPHEN A. COBB.
Shawnee, - - - - -	89 votes.
Olathe, - - - - -	93 "
Monticello, - - - - -	5 "
Lexington, - - - - -	82 "
McCamish, - - - - -	2 "
Gardner, - - - - -	29 "
Total	249 votes.

Monticello cast 5 votes for W. E. Smith, as appears by record in my office.

In testimony whereof, I have hereto set my hand and affixed the seal of said Johnson County at office, at Olathe, this 19th day of May, A. D. 1862.



J. A. JACKSON, Clerk,
By B. P. NOTEMAN, D. C.

Abstract of votes cast at the election held in the County of Wyandott, State of Kansas, on the 24th day of March, A. D. 1862, in the 8th District, to fill vacancy caused by the disability and removal of O. B. Gunn, Esq., from said body.

Stephen A. Cobb received one hundred and thirty-five votes.
Scattering two votes.

STATE OF KANSAS, }
Wyandott County, } ss.

We the undersigned County Canvassers of said County, do hereby certify that the above is a correct abstract of the votes cast for Senator at the election held in said County on the 24th day of March, A. D. 1862.

FRANCIS KESSLER,
Chairman pro. tem.

Friday, March 28th, 1862.

I hereby certify that the above is a true copy of the abstract of election held on the 24th day of March, A. D. 1862, as taken by the Board of Canvassers on the 28th day of March, A. D. 1862.

In testimony whereof I have hereunto set my hand and affixed the seal of my office at city of Wyandott, County of Wyandott, State of Kansas, on this 24th day of May, A. D. 1862.



EDWIN T. VEDDER,
County Clerk.

Mr. Holliday.—My object in calling attention to the matter is to have these returns spread on the record where they will occupy but a small space, and be satisfactory for reference.

Mr. Stevens moved as a substitute, that the claims of Hon. S. A. Cobb to a seat as Senator in this body, together with all papers and matters connected therewith, be referred to a Special Committee of five, to be appointed by the Secretary, which committee is directed to make report thereon, at 11 o'clock to-morrow morning.

The Secretary *pro tem* ruled that the motion of Mr. Stevens could not be entertained in the form of a substitute.

Mr. Stevens.—I wish to ask in what capacity this body is now acting, whether as a Court or a Senate? My motion was either an amendment or a substitute. If we are here as a Senate, the first is parliamentary. If as a Court, the second is in accordance with the rules adopted by the Senate for the Government of this High Court of Impeachment.

Mr. Hubbard.—In meeting here we have but one special object. We are still a Senate, having but one purpose—the trial of these respondents, impeached by the House of Representatives. We should, therefore, in all practicable cases, be governed by the rules framed by the Senate for the trial of Impeachments. In cases not covered by those rules, we should be governed by parliamentary law. The motion of the gentleman from Douglas being one to refer, is, therefore, a privileged question, and takes precedence of the motion of the Senator from Atchison, and ought to be entertained.

The Secretary.—I will entertain the motion of the Senator from Douglas, as a substitute for the original motion.

Mr. Keeler.—In relation to the admission of Mr. Cobb, who with me, represents the 8th Senatorial District, let me state what I know in relation to his election. Mr. Gunn, the former Senator, came from Wyandotte county. The people of that section, therefore, claimed the nomination, when the Senate declared the seat vacant, which was accorded them, and the name of Stephen A. Cobb being presented in Johnson county, where I reside, we voted for that gentleman. I cannot think a shadow of doubt rests upon the right of Mr. Cobb to a seat in this body.

Mr. Osborn.—Can the Senator from Atchison inform us at what time this gentleman was elected?

Mr. Ingalls.—It was at the general spring election.

The roll was called upon the amendment with the following result:

Ayes—Messrs. Barnett, Denman and Stevens.—3.

Nays—Messrs. Bayless, Connell, Curtis, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—18.

And so the amendment was lost.

The question recurring on the original motion of Mr. Ingalls, the roll was called with the following result:

Ayes—Messrs. Bayless, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—19.

And so the motion prevailed.

Mr. Holliday moved that all the papers pertaining to the election of Hon. S. A. Cobb, as State Senator, be spread upon the minutes.

Upon which the roll was called with the following result:

Yeas—Messrs. Barnett, Bayless, Connell, Curtis, Denman, Essick, Holliday, Ingalls, Knowles, Lambdin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper, Spriggs and Stevens.—18.

Nays—Messrs. Hubbard, Keeler and Lappin.—3.

And so the motion prevailed.

The Hon. S. A. Cobb came forward and took the following oath, which was administered by John T. Morton, Esq., Clerk of the U. S. District Court for the district of Kansas.

THE UNITED STATES OF AMERICA, }
 State of Kansas, } ss.
 County of Shawnee.

I, Stephen A. Cobb, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Kansas, and that I will faithfully discharge the duties of a Senator of the State of Kansas according to the best of my ability, so help me God.

STEPHEN A. COBB.

Topeka, June 3d, 1862.

Sworn to and subscribed before me this 3d day of June, A. D. 1862.



JOHN T. MORTON,
 Clerk of the District Court of the United States,
 for the District of Kansas.

Mr. Sleeper moved that the Senate do now proceed to elect a President pro tempore,

Upon which the roll was called with the following result:

Yeas—Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Osborn, Rees, Roberts, Sleeper, Spriggs and Stevens—21.

And so the motion prevailed.

Mr. Sleeper nominated T. A. Osborn of Doniphan County.

Mr. Connell nominated J. H. McDowell, of Leavenworth County.

Mr. Essick nominated J. M. Hubbard, of Waubesaunsee County.

Mr. Barnett nominated John J. Ingalls, of Atchison County.

Mr. Stevens nominated C. G. Keeler, of Johnson County,

Mr. Keeler nominated C. K. Holliday, of Shawnee County.

Whole number of votes 22.

Necessary to a choice 12.

First Ballot:

For Mr. Osborn,

Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Roberts, Sleeper, Spriggs—8.

For Mr. Ingalls,
Messrs. Barnett, Cobb, Hubbard, Lappin—4.

For Mr. McDowell,
Messrs. Connell, Denman, Keeler—3.

For Mr. Keeler,
Messrs. Holliday, McDowell, Osborn, Stevens—4.

For Mr. Hubbard,
Messrs. Essick, Ingalls, and Rees—3.

No gentleman having received a majority of all the votes cast,
there was no choice, and the Senate proceeded to the

Second Ballot, as follows :

For Mr. Osborn,
Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Roberts,
Sleeper, Spriggs—8.

For Mr. Ingalls,
Messrs. Barnett, Cobb, Hubbard, Lappin—4.

For Mr. Hubbard,
Messrs. Essick, Ingalls, Rees, Holliday—4.

For Mr. McDowell,
Messrs. Connell, Denman and Keeler—3.

For Mr. Keeler,
Messrs. Osborn, Stevens—2.

For Mr. Holliday,
Mr. McDowell—1.

No gentleman having received a majority of all the votes cast,
there was no choice, and the Senate proceeded to a

Third Ballot, as follows :

For Mr. Osborn,
Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Rees,
Sleeper, Spriggs—8.

For Mr. McDowell,

Messrs. Connell, Denman, Holliday, Keeler, Stevens—5.

For Mr. Hubbard,

Messrs. Essick, Ingalls—2.

For Mr. Ingalls,

Messrs. Barnett, Cobb, Hubbard, Lappin—4.

For Mr. Holliday,

Mr. McDowell—1.

For Mr. Essick,

Mr. Osborn—1.

For Mr. Knowles,

Mr. Roberts—1.

No gentleman having received a majority of all the votes cast,
the Senate proceeded to the

Fourth Ballot, as follows :

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For Mr. Osborn,

Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Roberts,
Sleeper, Spriggs—8.

For Mr. Ingalls,

Messrs. Barnett, Cobb, Hubbard, Lappin—4.

For Mr. McDowell,

Messrs. Connell, Denman, Keeler—3.

For Mr. Hubbard,

Messrs. Essick, Ingalls, Rees—3.

For Mr. Keeler,

Messrs. Holliday, McDowell, Osborn, Stevens—4.

And no gentleman receiving a majority of all the votes cast,
there was no election.

Mr. Ingalls moved

That the Court adjourn until 3 o'clock, P. M.

Lost.

Mr. Curtis moved

That the Court adjourn till 2 o'clock P. M., and

The motion prevailed.

AFTERNOON SESSION.

TUESDAY, 2 o'clock P. M.

Senate assembled.

Quorum present.

On motion of Mr. Keeler,

A call of the Senate was ordered and the Sergeant-at-Arms sent for absentees.

Messrs. Morrow, Lynde and Hoffman, were excluded from the call.

The Sergeant-at-Arms having returned with Messrs. Denman, Rees, and Spriggs,

Further proceedings under the call were dispensed with.

The Senate under the order of unfinished business, proceeded to the fifty ballot for president pro tempore, with the following result :

For Mr. Osborn,

Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Rees, Roberts, Sleeper, and Spriggs—9.

For Mr. McDowell,

Messrs. Connell, Keeler, Denman, Stevens—4.

For Mr. Ingalls,

Messrs. Barnett, Cobb, Essick, Holliday, Hubbard, Lappin—6.

For Mr. Hubbard,

Messrs. Ingalls, Osborn—2.

For Mr. Holliday,

Mr. McDowell—1.

No gentleman having received a majority of all the votes cast, there was no election, and the Senate proceeded to the

Sixth Ballot, with the following result :

For Mr. Ingalls,

Messrs. Barnett, Cobb, Hubbard, Lappin—4.

For Mr. Osborn,

Messrs. Bayless, Curtis, Keeler, Knowles, Lambdin, Rankin, Rees, Roberts, Sleeper, Spriggs—10.

For Mr. McDowell,

Messrs. Connell, Denman, Essick, Holliday and Stevens—5.

For Mr. Hubbard,

Mr. Ingalls—1.

For Mr. Holliday,

Mr. McDowell—1.

There being no choice the Senate proceeded to the

Seventh Ballot, with the following result :

For Mr. Ingalls,

Messrs. Barnett, Cobb, Holliday, Hubbard, Lappin, Roberts—6.

For Mr. McDowell,

Messrs. Connell, Denman, Keeler, Stevens—4.

For Mr. Osborn,

Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Rees, Sleeper, Spriggs—9.

For Mr. Hubbard,

Messrs. Ingalls and Osborn—2.

For Mr. Lappin,

Mr. McDowell—1.

There being no choice, the Senate proceeded to the
Eighth Ballot, with the following result :

For Mr. Orborn,

Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Roberts
Sleeper, Spriggs—8.

For Mr. McDowell,

Messrs. Connell, Denman, Stevens—3.

For Mr. Hubbard,

Messrs. Ingalls, Keeler, Osborn, Rees—4.

For Mr. Ingalls,

Messrs. Barnett, Hubbard, Lappin—3.

For Mr. Sleeper,

Mr. Cobb—1.

For Mr. Cobb,

Mr. Essick—1.

For Mr. Lappin,

Messrs. Holliday and McDowell—2.

There being no choice, the Senate proceeded to the
Ninth Ballot, with the following result :

For Mr. Osborn,

Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Roberts,
Sleeper, Spriggs—9.

For Mr. McDowell,

Messrs. Barnett, Connell, Denman, Holliday, Rees and Stevens—6.

For Mr. Ingalls,

Messrs. Hubbard and Lappin—2.

For Mr. Spriggs,

Messrs. Essick, Ingalls and Osborn—3.

For Mr. Stevens.

Mr. Keeler—1.

For Mr. Denman.

Mr. McDowell—1.

**There being no choice, the Senate proceeded to the
Tenth Ballot, with the following result :**

For Mr. Osborn,

**Messrs. Bayless, Curtis, Essick, Knowles, Lambdin, Rankin,
Roberts, Sleeper, Spriggs—9.**

For Mr. McDowell,

Messrs. Connell, Denman, Keeler, Rees, Stevens—5.

For Mr. Ingalls,

Messrs. Barnett, Cobb, Hubbard, Lappin—4.

For Mr. Lappin,

Mr. Holliday—1.

For Mr. Stevens,

Mr. McDowell—1.

For Mr. Hubbard,

Mr. Ingalls—1.

For Mr. Spriggs,

Mr. Osborn—1.

**There being no choice, the Senate proceeded to the
Eleventh vote, with the following result :**

For Mr. Osborn,

**Messrs. Bayless, Curtis, Keeler, Knowles, Lambdin, Rankin,
Rees, Roberts, Sleeper, Spriggs—10.**

For Mr. Ingalls,

Messrs. Barnett, Cobb, Holliday, Hubbard, Lappin—5.

For Mr. McDowell,

Messrs. Connell, Essick, Denman, Stevens—4.

For Mr. Essick,

Messrs. McDowell, Osborn—2.

For Mr. Hubbard,

Mr. Ingalls—1.

There being no choice, the Senate proceeded to the
Twelfth Ballot, which resulted as follows :

For Mr. Osborn,

Messrs. Bayless, Curtis, Knowles, Lambdin, Rankin, Rees, Roberts'
Sleeper, Spriggs—9.

For Mr. Hubbard,

Messrs. Barnett, Cobb, Essick, Ingalls, Lappin—5.

For Mr. McDowell,

Messrs. Connell, Denman, Holliday, Stevens—4.

For Mr. Curtis,

Messrs. Keeler and McDowell—2.

For Mr. Barnett,

Mr. Hubbard—1.

For Mr. Essick,

Mr. Osborn—1.

There being no choice, the Senate proceeded to the
Thirteenth vote, which resulted as follows :

For Mr. Osborn,

Messrs. Bayless, Curtis, Cobb, Knowles, Lambdin, Rankin, Rees,
Roberts, Sleeper, Spriggs—10.

For Mr. Hubbard,

Messrs. Barnett, Holliday, Ingalls, Keeler, Lappin.—5.

For Mr. McDowell,

Messrs. Connell, Denman, Essick, Stevens.—4.

For Mr. Barnett,

Mr. Hubbard.—1.

For Mr. Denman,

Mr. McDowell.—1.

For. Mr. Essick,

Mr. Osborn.—1

There being no choice, the Senate proceeded to the fourteenth ballot, which resulted as follows:

For Mr. Osborn,

Messrs. Bayless, Connell, Curtis, Denman, Essick, Keeler, Knowles, Lambdin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs, Stevens.—15.

For Mr. Ingalls,

Messrs. Barnett, Cobb, Hubbard, Lappin.—4.

For Mr. Hubbard,

Messrs. Holliday, Ingalls.—2.

Mr. Osborn having received a majority of all the votes, was declared duly elected President *pro tem.* of the Senate of the State of Kansas.

The President appointed C. K. Gilchrist, Assistant Secretary, Secretary *pro tem.* of the Senate of the State of Kansas, who took the following oath:

UNITED STATES OF AMERICA,	} ss.
State of Kansas.	
Shawnee County,	

I, C. K. Gilchrist, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Kansas, and faithfully discharge the duties of Secretary *pro tem.* of the Senate of the State of Kansas, according to the best of my ability; so help me God.

C. K. GILCHRIST,

June 3d, 1862.

Sworn to and subscribed before me, this 3d day of June, A. D. 1862.

T. A. OSBORN,

President *pro tem.* of the Senate
of the State of Kansas.

Robert Parham was appointed by the President as Assistant Secretary, and after taking the usual oath entered upon the duties of his office.

On motion of Mr. Hubbard

The Senate proceeded to the election of an Assistant Sergeant-at-Arms.

Whereupon, Charles Clarkson having received 21 votes, was declared unanimously elected.

Mr. Holliday offered the following preamble and resolution, and moved its adoption :

WHEREAS, the names of Messrs. Lynde and Hoffman appear upon the roll of the Senate, and whereas, said Lynde and Hoffman are commissioned officers in the military service of the United States, and whereas, the Senate has determined, by previous action, that the holding of a military position and a seat in the State Senate are incompatible, therefore

Resolved, That a committee of three be appointed by the Chair to inquire whether Messrs. Lynde and Hoffman are entitled to seats in this body, and report such action as they may deem advisable.

The resolution being adopted,

The Chair appointed Messrs. Holliday, Cobb and Essick said Committee.

Charles Clarkson, Assistant Sergeant-at-Arms, appeared and took the oath of office.

Messrs. Bayless, Cobb and Rankin took the following oath, which was administered by the President pro tem.:

"You and each of you do solemnly swear that in all things pertaining to the trial of the impeachment of John W. Robinson, you will do impartial justice, according to the law and the evidence; so help you God;"

Mr. Rankin offered the following resolution and moved its adoption :

Resolved, That the Senate hereby authorize the publication of its proceedings in the trial of the impeachment of Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of State, in the daily Topeka *State Record*, in such form as will be convenient to be bound for the use of the State, and such proceedings to be reported for publication by the regular reporters of this body.

Upon which resolution the yeas and nays were demanded with the following result :

Ayes—Messrs. Barnett, Bayless, Cobb, Connell, Essick, Holliday, Lambdin, McDowell, Rankin, Rees, Mr. President.—11.

Nays—Messrs. Curtis, Denman, Hubbard, Ingalls, Keeler, Knowles, Lappin, Roberts, Sleeper, Spriggs and Stevens.—11.

There being a tie, the President declared that the resolution was lost.

Mr. Sleeper moved that the Senate adjourn until to-morrow morning at 10 o'clock.

Lost.

The President announced that the Senate was ready to proceed to the trial of the impeachment of John W. Robinson, Secretary of State, of the State of Kansas.

Whereupon, the Sergeant-at-Arms proclaimed :

“Oyez ! Oyez ! Oyez ! The High Court of Impeachment of the State, of Kansas is now open.”

Present.—The Hon. S. A. Stinson, Attorney General of the State, and the Board of Managers on the part of the House of Representatives of the State of Kansas.

The Hons. Fred. P. Stanton and Wilson Shannon, and N. P. Case, Esq., counsel for the respondent.

John W. Robinson appeared in person.

Mr. Stanton.—Mr. President:—I have a paper here which I wish to read, and ask that it may be filed and spread upon the Journal of the Court :

John W. Robinson, by his Attorneys, excepts to these proceedings, and denies the authority of this body, which assumes to be the Senate of the State of Kansas, sitting as a Court of Impeachment, for the following reasons :

1st. Because by the Constitution of the State, all impeachments must be by the Senate, sitting legally for that purpose : whereas the Senate and House of Representatives, by Concurrent Resolution, adjourned *sine die* on the 6th day of March last, and cannot of their own motion, again assemble for any purpose until the time designated by the Constitution for the regular session.

2d. By the Constitution, the sole power of impeachment is vested in the House of Representatives. This authority cannot be delega-

ted to any committee or other person whatsoever, and no impeachment can be tried except upon the prosecution of the House of Representatives, and during the session of that body.

3d. The Constitution of the State recognizes the Senate only as a branch of the Legislature, and there is no authority for any session of the Senate, separate and apart from that of its co-ordinate branch—the House of Representatives.

4th. The supposed law of the last session, entitled “An Act regulating trials of Impeachment, and fixing the compensation of members and officers of the Court,” could not have become a law until its publication in April last; supposing said law to be valid and constitutional, the adjournment of the Court of Impeachment until the first Monday in June, inst., which took place on the 28th day of February last, was without authority of law, and absolutely void. This body is, therefore, now sitting in direct contravention of the provisions of the Constitution.

5th. The proceedings of this body, thus irregularly and unlawfully assembled, will be a nullity, and neither its acquittal nor its conviction will accomplish any result whatever.

WILSON SHANNON,
FRED. P. STANTON,
NATHAN P. CASE.

The Attorney General of the State, Hon. S. A. Stinson, on the part of the Board of Managers, rose and said :

May it please the Court : We object to the introduction of this paper, or to its being filed among the records of this Court. This paper, Mr. President, is an insult ; neither in form or substance is it respectful to the dignity of this body.

I have yet to know that a party can come into Court and present a protest against the jurisdiction, and ask that it be filed. Such proceedings are not allowed in any Court of law or justice ; and learned counsel are well aware of the fact that protests are only allowable in legislative proceedings. Suppose these proceedings were taking place in a court of criminal jurisdiction : would counsel consider that they had a right to enter the court and file a paper of this character ? If counsel will present these objections in proper shape and form as a plea or motion against the jurisdiction of this Court to try these impeachments, the Board of Managers on the part of the House of Representatives will be found ready to vindicate the validity of these proceedings. In their name I do object—most solemnly object—against placing this paper on file.

Mr. Stanton.—Mr. President, and Gentlemen of the Senate: The Attorney General is mistaken in supposing this to be a protest against the jurisdiction of the Senate to sit as a Court of Impeachment; it is an objection to the regularity of the present session. It is no matter whether this paper is filed or not; the objections it contains cannot help being met. No Senator can refuse to meet them; they will be present at every turn:—in the opening of depositions, in the swearing of witnesses, and in all the details of these proceedings; they cannot be ignored. I wish the gentleman would show, in our own country or in England, a single case where an impeachment has been conducted, except by the House of Representatives acting as a solemn Court of Impeachment while in session, by its managers, and appearing at times as a body before the Senate. We present this paper, because it was thought best to bring up the objections in this form, at the beginning of these proceedings. If the Senate will hear the arguments now, it will bring the matter fully before them. It is our candid belief that these proceedings will be a nullity. This Board of Managers may be worthy gentlemen, but they have no legal existence. These proceedings amount to nothing but frivolity. You cannot dodge the issue.

The Attorney General.—We do not now intend to argue the questions involved in this paper. What I ask is that there shall be some legal plea or motion presented here, and when it comes up in such shape, we shall undertake to defend the action of the House of Representatives, and the dignity of this body. We shall undertake to show that you are not guilty of the frivolity of which you are accused by the learned counsel. We do not expect to dodge the issue. When these objections come regularly before this body, we can and will meet them.

Mr. Stanton.—I suggest to the Attorney General that this paper is merely asked to be filed as a Bill of Exceptions. We intend the placing it on record as a basis of proceedings in other courts. We are aware that no appeal can be taken from the judgment of this body, if it shall decide affirmatively on its right to proceed at this time. But there is collateral action involved. The officers impeached may try to stay a judgment depriving them of office. Writs of *quo warranto* may issue, and thus the subject come regularly before the Supreme Court, the highest tribunal of the State. In this way the whole matter will be brought up. We

intended no disrespect to any gentleman, by the objections, or the form in which they are presented. I do not think any gentleman will think, for an moment, that we had any such intention.

Mr. Stevens.—I would like to ask the Attorney General if an agreement is not possible, by which we may hear these important questions argued by counsel before the Senate?

The Attorney General.—The subject is not before the Senate in a proper form to be argued.

Mr. Stanton.—We do not object to the Senate sitting as a Court of Impeachment, but we do not recognize this body in that capacity. We cannot, therefore, object to the jurisdiction of a court which is not a court. Counsel associated with me have examined this question, and we solemnly believe that there is truth contained in the matter presented in this paper. We should be sorry to see Kansas placed in the false position which this trial will give her before the country: a position different from that of any other State; a reality that is, at the same time, a nullity.

By request of a Senator, the paper was read again.

The Attorney General.—From the reading of this paper, it strikes me that the proper place to object to these proceedings would be at the office of the Provost Marshal General of the State. He announces that he will suppress all illegal assemblies. The learned counsel so characterizes this honorable body. If they believe it to be so, then they need have no fears for their clients. These defendants can go from this chamber at any time without caring for our action.

Mr. Stanton.—The Legislature of the State adjourned *sine die* on the 6th day of March. How, then, can the Senate be here in session at this time? No call has been issued by the Governor, and one body cannot be in session without its co-ordinate branch. I observe in what purports to be the proceedings in these cases of impeachment, that a motion to adjourn the Senate till the 2d day of June, was made by the Hon. Attorney General, on the 28th day of February. The House of Representatives is not here, and both bodies adjourned without day on the 6th of March. How can this body be legally assembled? These proceedings will not affect our clients, except subjecting them again to the forms of a tedious

trial, which will have to be held by the next session of the Legislature, in order to make the proceedings legal.

The Attorney General.—It is my right to close this debate. I cannot be drawn into a discussion on other matters. I object to the filing of this paper, and insist upon the objection. The counsel for the defense agreed, if I remember aright, to the adjournment of the Court of Impeachment to this day.

Mr. Stanton.—I meant no disrespect to the Attorney General, in calling attention to this adjournment. I am aware that counsel on both sides agreed to that arrangement, but we had no evidence then that the House of Representatives would act illegally, and fail to be present.

The Attorney General.—May it please the Court: I insist on my objection to the filing of this paper.

The President.—Counsel must confine themselves to the rules of courts in these discussions. This debate is very irregular.

Mr. Holliday.—This is a new question, and I would like to hear the arguments of counsel. I hope the Senate will adjourn, and that at the next session counsel will argue the question, which I am glad to hear they are ready to do. I, therefore, submit the following resolution, and move its adoption:

Resolved, That the matter under discussion be postponed until to-morrow at 10 o'clock A. M., when the Senate will hear arguments upon it.

Lost.

Mr. Stanton.—I am aware that it is not regular for counsel to proceed in this way. It is usual for the Senate to discuss questions for information, and to hear counsel. Such a course could not be allowed during a trial.

Mr. Hubbard.—Mr. President:—The question is upon filing this paper, and not upon the questions involved in it, as I understand it.

Mr. Cobb.—Will counsel inform me if the filing of this paper would be considered by them as an admission by the Court of the points contained in it?

Mr. Stanton.—Not at all, Sir!

The question before the Senate being, "Shall the objection of the Attorney General be sustained?" the vote resulted as follows:

Ayes—Messrs. Barnett, Bayless, Connell, Curtis, Essick, Hubbard, Lambdin, Lappin, McDowell, Rankin, Sleeper.—11

Nays—Messrs. Cobb, Denman, Ingalls, Roberts, Spriggs Stevens.—6.

And so the Senate refused to allow the paper to be filed.

The Attorney General.—May it please the Court:—On behalf of the Board of Managers, I now move that we proceed to the trial of John W. Robinson.

Mr. Stanton.—Mr. President:—We desire to object to all further proceedings of this body in this matter, on the grounds set forth in the paper rejected from the files of this body.

The Attorney General.—In the matter of the impeachment of John W. Robinson, on the part of the managers, I request the opening of the depositions taken on behalf of the House of Representatives here prosecuting.

Whereupon, the depositions were opened by the President pro tem.

Mr. Rankin offered the following resolution, which was adopted:

Resolved, That a committee of three be appointed by the chair to inquire what steps should be taken by this body in regard to the publication of the proceedings of the Court of Impeachment, and report to-morrow morning.

The chair appointed Messrs. Rankin, Rees and Roberts, said committee.

Mr. Stevens offered the following resolution, which was adopted:

Resolved, That the Sergeant-at-Arms be directed to cause curtains to be hung at all windows on the west side of the Hall, and to provide such other things as may be necessary for the convenience of Senators.

On motion of Mr. Sleeper,

The Senate adjourned until 10 o'clock to-morrow morning.

THIRD DAY.

SENATE CHAMBER,
Wednesday, June 4th, 1862. }

Senate assembled.

Present—Hon. S. A. Stinson, and the Board of Managers.

The Hons. Fred. P. Stanton and Wilson Shannon, and N. Case, Esq., counsel for the respondent.

John W. Robinson appeared in person.

Journal of yesterday read and approved.

Mr. Stevens offered the following resolution, which was adopted :

Resolved, That the President of the Senate be and he is hereby authorized to appoint such officers and clerks as he may deem necessary to properly transact the business of this session.

Mr. Cobb offered the following resolution, which was not adopted :

Resolved, That the Sergeant-at-Arms be instructed to procure saw-dust for the floor of the Senate Chamber, and have the same spread upon the thoroughfares of the Chamber by the assembling of the Senate to-morrow morning.

Mr. Rankin, Chairman of the Special Committee on Printing, submitted the following report :

Your Committee, who were appointed to inquire what steps should be taken by the Senate in regard to the publication of the proceedings of the Court of Impeachment, would report that they have had the subject under consideration, and have come to the following conclusion : That a sufficient number of copies of each day's proceedings, exclusive of the speeches of the attorneys, to furnish each member of the Court with a copy, and each one of the parties, and their attorneys, with a copy, should be published in pamphlet form, and laid upon their desks at the next sitting of the Court after such proceedings have been had ; and that three hundred extra copies be printed and bound for the use of the State. We, therefore, recommend the consideration of the following resolution to the Senate :

Resolved, That one copy of each day's proceedings of this Court of Impeachment, exclusive of the speeches of the attorneys, be printed in pamphlet form and furnished to each member of the Court, and one copy to each one of the parties, and one copy to each

of their attorneys, and laid upon their desks at the next sitting of the Court after such proceedings have been had, and that three hundred extra copies of the same be printed and bound for the use of the Senate.

J. M. RANKIN,
Chairman.

Mr. Hubbard moved to amend by striking out the words "exclusive of the speeches of the attorneys."

Carried.

The report, as amended, was adopted.

On motion of Mr. Rankin, the printing was referred to the Senate Committee on Printing.

The President appointed Mr. Denman on said committee, *vice* Mr. Lynde.

Hon. Fred. P. Stanton, of counsel for the respondent, John W. Robinson, submitted the following motion :

The counsel for John W. Robinson moved that this honorable body take no action on the Articles of Impeachment preferred against the said Robinson at the last session of the Legislature, on the ground that the Senate has no lawful authority to hold a session, or to proceed in the trial of said impeachment at the present time.

WILSON SHANNON,
FRED. P. STANTON,
NATHAN P. CASE.

Mr. Stanton said :

Mr. President :—I had the honor yesterday to submit some exceptions, which the Senators refused to entertain or consider. It therefore becomes necessary for me to make the motion now before you, in order that I may bring the subject to the serious examination of this body, before it enters upon an investigation incapable of producing any legal result.

The journal of the last session of the Senate, in manuscript, now lies before me. In it, I find that on the 6th day of March last, by concurrent resolution, the Senate and House of Representatives adjourned *sine die*. Neither of these bodies can meet of its own will until the second Tuesday of January next, the time designated in the 26th Section of the 2d Article of the Constitution for the regular session of the Legislature. By the 5th Section of the 1st Article, the Governor may convene the two Houses upon

extraordinary occasions. No proclamation, however, has called this body together ; and as the day for the annual meeting of the Legislature has not arrived, we must look elsewhere than in the Constitution, for the authority to organize this body, at the present time, with the form and functions of the Senate.

I am aware it is claimed that on the 28th of February last, the Senate, then organized as a Court of Impeachment, adjourned over until the first Monday in June. But I have thoroughly examined the journal of the Senate, and I find no such entry among its proceedings. The only order for any adjournment, except from day to day, is that to which I have already alluded, by which the two Houses adjourned *sine die*.

It is probable the Secretary of the Senate may have kept the minutes of that body, as a Court of Impeachment, in a separate book from that which contains the journal of the Senate. But as no such record is to be found in the office of the Secretary of State, where the law requires it to be kept, I will assume, however, that there is some such record, for I find the statement in a pamphlet, printed by order of the Senate, although upon or in this pamphlet, there is no sort of authentication of the document, by any certificate or signature of any officer whatever. Admit, for the sake of argument, that the Senate, as a Court of Impeachment, did, on the 28th of February last, regularly adjourn until the first Monday in June, the language of the Constitution is, " All impeachments shall be tried by the Senate ;" and although the body may have assumed the forms of a Court, it was still the Senate, and could be nothing else but the Senate. It had power to adjourn to any time within the session of the Senate ; it could even adjourn over to a subsequent session ; but this was nothing more than the mere postponement of the business until the time designated. When the Senate and the House of Representatives adjourned *sine die*, this latter order overruled and annulled the former.

There is no such thing as a Court, separate and distinct from the Senate. On the contrary, the Senate comprehends or contains the Court. It embraces both the legislative and the judicial body. Therefore, when the Senate adjourned *sine die*, all its functions legislative and judicial were entirely suspended ; and they cannot be resumed until the body shall again assemble in pursuance of law.

This body certainly assumes to be the Senate ; and if it has any power to sit at all, it must be in that character, and in no other. I

find from your proceedings, that you have admitted new members, thus judging of their qualifications; you have appointed a committee to inquire as to the right of members who are now in the army; you have elected a President, and other officers.

All these acts are done in the exercise of functions which belong only to the Senate. It is wholly impossible that you could meet as Court alone, without, at the same time, assuming in many respects the character of a legislative body, and performing duties which belong to you only in that capacity. It is therefore plain that any supposed adjournment to meet simply as a Court, and not as a Senate, is nugatory. Especially is it so when the adjournment is to a time outside of the sessions of the Senate, and after the Senate, by concurrence of the House of Representatives, has adjourned *sine die*.

The Constitution of the State of Kansas recognizes the Senate as one branch of the legislature, and nowhere seems to contemplate separate action or separate functions. Even in the case of impeachments the two branches of legislature must co-operate in the exercise of their respective powers; for the House prosecutes while the Senate tries.

The provision in our Constitution on the subject of impeachments is identical with that in the Constitution of the United States, with the exception of that clause which requires the Chief Justice of the Supreme Court to preside, in case of the impeachment of the President. We know that the Senate of the United States does often sit, when the House of Representatives has adjourned *sine die*, for there is an express authority given to the President to convene either house of Congress when he thinks it necessary. Yet, although there have been four cases of impeachment in the Senate of the United States, and that body has separate functions from those of the House of Representatives, no impeachment has ever been tried in the vacation of the House. Some of the cases have been postponed from time to time, and even from session to session, under circumstances when it would apparently have been convenient to hold an extra session of the Senate alone, in order to conduct the trial. But so far as I can ascertain, no suggestion of such a proceeding was ever made from any quarter. Our Constitution has made no provision for separate sessions of the Senate, under any circumstances, or for any purpose whatever. There is not one clause in the whole instrument, which, by the remotest implication, seems to contemplate any such separate sessions. On the contrary,

there are several clauses which would seem to negative the power to hold them. I shall refer to these directly.

The House of Representatives has the sole power to impeach, and it cannot delegate this power to any other parties. It is usual to appoint managers on the part of the House, but these have no delegated power. They are merely agents or instruments, through whom the House executes its orders.

The House is always considered to be present in the person of its managers; but this presumption cannot be admitted when the functions of the body have entirely ceased by an adjournment *sine die*. An adjournment from day to day does not suspend the functions of a legislative body at all; in contemplation of law it is in continual session. But any longer adjournment has a very different effect.*

Our law of impeachments as well as the whole machinery of proceeding, has been derived from the law and practice in the English parliament. This was the necessary result of the language employed in the Constitution of the United States, and with our previous connection with the government of Great Britain under the common law of the realm. When trials for impeachment are pending before the House of Lords in England, the Commons invariably attend in a body.† The House of Representatives of the United States, have not thought it proper or admissible for them to depart from this practice.

The case of Blount, a Senator from Tennessee, in 1799, was not an exception; for no trial was even had in that case, it having been decided after full argument, that an U. S. Senator is not subject to impeachment under the Federal Constitution. The subsequent trials of Pickering, Chase and Peck, were all conducted strictly according to the English precedents. No step was taken by the Senate until it had first given due notice to the House of Representatives, and generally, the latter body, having resolved itself into a committee of the whole, attended the trial in person. No proceedings of the kind have ever been carried on in the Senate of the United States, in the absence of the House of Representatives—that is to say, while the latter was not in session, and either actually or constructively present at the trial. Barclay, in his digest, page 91, gives the following account of the proceedings of the twenty first Congress:—

*Cushing Law of Legislative Assemblies, pp 301, 303, 733.)

†Cushing Law of Legislative Assemblies, p 363.

The Senate notified the House "that it was ready to proceed upon the impeachment of James H. Peck, Judge &c., in the Senate chamber, which chamber was prepared with accommodations for the reception of the House of Representatives."

Thereupon the House resolved itself into a committee of the whole House and proceeded to the Senate in that capacity; having spent some time therein, they returned into the chamber of the House, and the Speaker having resumed the chair, the chairman of the committee of the whole reported the proceedings which had taken place, and that the Senate sitting as High Court of Impeachment had adjourned to meet at the next session.

At the ensuing session the Senate notified the House of their readiness to proceed to the trial, and the House resolved that from day to day it would resolve itself into a committee of the whole and attend the same.

I insist that under the provisions of our Constitution, no impeachment can be prosecuted, except by the House of Representatives, which must necessarily be in session, so that it can be at least constructively present at the trial. We are entitled to the benefit of the wisdom and justice of that body, while acting under all the responsibility of its position and character, as representing the whole people of the State. In the great case of Warren Hastings, when Mr. Burke, in the course of his address to the House of Lords, used expressions which had not been sanctioned by the House of Commons, the latter, upon the petition of the accused, resolved that Mr. Burke ought not to have used the expression complained of.*

What recourse have we under, under present circumstances, if the gentlemen sent here by the House of Representatives of the State, should act vindictively or oppressively, or should in any way exceed the authority claimed to have been devolved upon them? I do not, for a moment, question the good motives and just intentions which will guide these honorable gentlemen, in their prosecutions of these impeachments. They may also be as wise and as eloquent as Burke, but they will hardly claim to be entirely free from the errors, which even that great orator and statesman could not altogether avoid. They cannot act with the same sense of solemn responsibility, which doubtless would control the House of Representatives, if that body was actually now here, performing its high constitutional duty, in conducting this prosecution. I have the highest respect

*Cushing, 983 m.

for the gentlemen who appear on behalf of the House. I know their integrity and ability; yet they can scarcely escape the influence of professional pride, which will invariably bring them down from the elevated position of the great public body, in whose shoes they stand, to the level of mere attorneys, with all the ambition and love of victory which characterize the conflicts of the bar. The great ends designed to be secured by the peculiar and imposing proceedings in cases of impeachments, will, to a great extent, be frustrated, and these trials, with all their expense to the State, and annoyance to individuals, will fall into the ordinary routine of every-day investigations. We have a right to the presence and protection of the House of Representatives. The great and important functions of that body, in such cases as these, cannot be transferred to any committee. The honorable gentlemen, who assume to appear for them, though they be all that individual men can be, are incapable of holding and exercising the great trust which the people have conferred upon the whole body of their Representatives. The vast responsibility and the majority of that body, cannot be compressed into the persons of these half dozen gentlemen, who claim to stand here in the name and stead of the entire representative body. Judge Story, in his Commentaries on the Constitution, vol. 2, p. 166 to 171, says:

"The objects of prosecutions of this sort (impeachments) is to reach high and potent offenders, such as might be presumed to escape punishment in the ordinary tribunals, either from their own extraordinary influences or from the imperfect organization and powers of those tribunals. These prosecutions are, therefore, conducted by the representatives of the nation, in their public capacity, in the face of the nation, and upon a responsibility which is at once felt and revered by the whole community.

"The notoriety of the proceedings; the solemn manner in which they are conducted; the deep extent to which they affect the reputation of the accused; the ignominy of a conviction which is to be known through all time; and the glory of an acquittal which ascertains and confirms innocence; these are all calculated to produce a vivid and lasting impression on the public mind; and to give such prosecutions, when necessary, a vast importance, both as a check to crime and an incitement to virtue."

If we would avoid the danger of "imperfect organization and powers" on the tribunal which tries high political offenders, it becomes us to tread reverently in the footsteps of those who have preceded us and established rules and precedents for our guidance; to pursue the *antiquas vias* in which alone there is safety, when

we approach things of such magnitude as those which now engage us.

Mr. President, I do not know of a single instance in this country, where, under a Constitution like ours, these principles have been disregarded. I challenge the gentlemen on the other side to produce one if they can. The Constitutions of some of the States provide generally "that there shall be no trial of an impeachment until after an adjournment of the Legislature."—Cushing, 986. Such a provision as this would, undoubtedly, change the whole character of the tribunal, and would introduce new rules and principles. But the very fact that such provisions were deemed necessary, in any State Constitution, would imply the impossibility of proceeding in that way, without express constitutional authority.

The maxims, "*expressio unius exclusio alterius*," would prevail in the case of a Constitution without such a provision, and exclude the possibility of separate sessions of the Senatorial body.

It was argued, however, that the law of the last session, entitled "An act regulating trials of impeachment and fixing the compensation of members and officers of the Court," makes the present session of the Senate legal and valid. I am sure, in the absence of that law, no one would contend for the regularity of your present session. I am equally sure, on the other hand, that no sanction for the pending proceedings can be derived from the law in question. The Court of Impeachment claims to have adjourned from the 28th February last, until the 1st Monday in June inst., and this was done in pursuance of the law quoted. But that law did not pass both Houses until the 1st of March; it did not become a law until the 6th of March; and by its own express provisions, it was not in force until after publication, which took place some time in April. The adjournment of the 28th February was not, therefore, authorized by the law, nor was it afterwards legalized by it; for the whole provision, on that subject, is contained in the 1st Section, which is in the following words:

"That the Senate of the State of Kansas, when organized and sitting as a Court for the trial of impeachments, brought by the House of Representatives, shall have power to adjourn from time to time, and hold sessions after the adjournment of the Legislature."

The subsequent sections authorize the Board of Managers, appointed by the House, to conduct the prosecution, appoint their own officers, send for persons and papers, and compel the attendance of witnesses, as fully and amply as the House of Representatives itself might have. They also provide for the payment of the members

of the Senate and those members of the House engaged in the prosecution.

I have already endeavored to show that the whole spirit of the Constitution is against the power of either branch of the Legislature to hold separate sessions. There are, however, two express provisions with which the law quoted seems to come in direct conflict.

The 10th Sec. of the 2d Art. provides that "neither House, without the consent of the other, shall adjourn for more than two days, Sundays excepted." This provision evidently implies that both bodies are to co-operate in their respective acts of adjournment, judging of the necessity and propriety of such steps, at the time they are taken. The Legislature has no right to pass a law to the effect that this prohibition, as to adjournment, shall be inoperative. To enact that either House may adjourn when it will and as long as it pleases, would be virtually to repeal this clause of the Constitution. This is not the "consent" contemplated when the Constitution gave each House this control over the adjournment of the other; for if it were, then, as one House alone can never repeal a law, the House can never hereafter recall its consent to adjournments in cases of impeachment, and the Senate may thus forever prevent prosecutions from being carried on by the House of Representatives.

Moreover, if the Senate may sit alone to try impeachments, the House may also sit alone in order to institute them. A law may be passed authorizing the House to adjourn from time to time, at its pleasure for this purpose; and thus the last vestige of co-operation, in the functions of these two bodies, will have been virtually abolished and erased from the Constitution.

But, after all, it is not so certain that this law does actually authorize the Senate to adjourn longer than for two days. It certainly does not expressly so enact, and, in the absence of such express words, a well known principle of construction, would preserve the Constitutional provision, by interpreting the law in accordance with it.

Another provision of the Constitution plainly violated by this law is that contained in the 3d Sec. of the 2d Art., which declares what compensation members of the legislature shall receive for their services. It is only at some "regular or special session" *of the legislature*, that any compensation at all is allowed. I think nothing is plainer than that no compensation can be paid to members of the Legislature, except in conformity to this clause of

the Constitution ; and as it certainly was not intended to compel Senators to perform the important duties of a Court of Impeachment without compensation, it follows that their session, in that capacity, were intended to be within some regular or special session of the Senate.

I know very well, that in cases of impeachment, there can be no appeal from the decision of the Senate. But when a body, which is not a Senate, undertakes to pronounce judgment, and depose an officer of the State, the Supreme Court, upon a writ of *Quo Warranto*, will determine whether the body claiming that high prerogative, is Constitutionally authorized to exercise it. Or, again, any member or officer of this body may apply for a mandamus, to compel the State officers to pay his compensation ; and the question whether he is entitled to pay as a member or officer of this body, will be directly presented for the decision of the Court, and that decision will necessarily involve the Constitutional right of this body to sit here now as the Senate of the State.

Let no Senator suppose that this argument is designed as a means of escape for those who stand accused of high crimes and misdemeanors by the House of Representatives. The impeachment will not fall, if an adjournment should take place. Neither will the expiration of their term of office relieve any one of them from the trial which the Senate, when Constitutionally assembled, may proceed to consummate. They may still be convicted, and rendered forever incompetent to hold any office in the State. It is not for the purpose of escaping trial that this motion is presented and insisted upon. Our only object is to secure a tribunal whose judgment, either of acquittal or condemnation, will put an end to this controversy forever.

It is manifest to me that the proceedings of this body will not accomplish that result. Confident of the innocence of those who have confided their cause to my hands, in part, I am anxious that no shadow of illegality or incompetency of Constitutional authority shall rest upon the tribunal which shall pronounce their vindication.

On motion of Mr. Ingalls, the Senate adjourned until 2 o'clock P. M.

AFTERNOON SESSION.

Wednesday, June 4, 1862, 2 o'clock, P. M.

Senate assembled pursuant to adjournment.

President in the chair.

Quorum present,

Hon. F. W. Potter, of the Board of Managers, in opening the argument against the motion of the Defendant's counsel, said:

[The argument of Mr. Potter was not furnished by the reporter.]

The Hon. S. A. Stinson, Attorney General, continued in behalf of the State, as follows:

Mr. President, and may it please this Honorable Court:—After the able and comprehensive argument of my colleague, in favor of the legality and jurisdiction of this tribunal, I might, perhaps, refrain from debating the question now presented, did I not feel that I should be lacking in courtesy, should I neglect to reply to some of the many questions directly addressed to myself by the distinguished gentleman who opened the argument of this motion on the part of the defense.

The arguments adduced by the learned gentleman, Gov. Stanton, in support of his position, naturally divide themselves into two classes. The one aimed at your pockets, the other at your understandings.

It is insisted that the law, which, among other things, provides for the payment of the members of this body, is unconstitutional; or, at any rate, that the State officers who have to pass upon the question, (some of them now here for trial,) may have such grave doubts in the premises, as to compel you to resort to the Courts to coerce from their unwilling hands the poor compensation which the law gives you for your services. The only conceivable purpose for which this argument could have been urged was to influence your judgments, as I remarked in the outset, by an appeal to your pockets. In these warlike times, we hear of victories achieved by cutting off the enemy's supplies, and I am led to believe, from the arguments of counsel, that the State officers contemplated some such strategical movements upon your honorable body. I regret this implied threat—one not new to our ears—as it carries with it the impres-

sion that parties in power desire to retard this investigation, and shows that either the able and learned gentleman, or his client, misconceives the motives, temper, and spirit with which this honorable body is here assembled. I shall, with this brief notice, pass this branch of the gentleman's argument, and address myself to the propositions legitimately involved in this discussion.

In brief, it is contended that this Body is assembled without authority of law, and that its judgment either of conviction or acquittal will be a mere nullity. The reasons urged in support of this proposition are substantially these: 1st. The House of Representatives not being in session, the Senate has no authority to proceed with this trial. 2nd. That the adjournment of the Senate on the 28th day of February, to the first Monday of June, was unconstitutional, the consent of the House of Representatives not having been obtained thereto. 3rd. That on the 6th day of March, 1862, the Senate together with the House of Representatives adjourned *sine die*.

In discussing these positions, I propose to call your attention in the outset to what I conceive to be the peculiar constitution and functions of this body, as at present organized. The 2nd Article of the Constitution of this State, Sec. 1, reads as follows: "The Legislative power of the State shall be vested in a House of Representatives and Senate." This article is entitled "Legislative," and all its provisions from its commencement to the 27th Sec., relate purely and strictly to the legislative or law-making department of the government. Yet even as law-making bodies, and branches of the Legislature, the existence of neither branch is so absolutely dependent upon the other, as the gentleman would have you believe. In its purely legislative capacity, the Senate may have an organized existence—may be legally in session without the presence or organization of the House. To illustrate:—Suppose the next Senate meets and organizes on the day prescribed in the Constitution, and the House for any reason, should fail to assemble, would the Senate for that reason lack a legal existence and organization? I advance these views merely for the purpose of showing that there is no such Siamese Twins connection between the two Houses of the Legislature, as the gentleman would seem to contend for. But it is not as a branch of the legislative department of the government or in the exercise of legislative power that the Senate sits for the purpose of trying impeachments. Strictly and technically that portion of the Con-

stitution which confers upon the House of Representatives the power to impeach, and upon the Senate the power to try impeachments, should be classed under the "judicial," and not the legislative head. This jurisdiction over matters of impeachment is simply an infringement sanctioned by long usage and weighty reasons, upon the functions of our ordinary judicial tribunals.

Says Chief Justice Story:—"An impeachment as described in the common law of England. is a presentment by the House of Commons,—the most solemn grand inquest of the whole Kingdom,—to the House of Lords,—the most high and Supreme Court of criminal jurisdiction of the Kingdom." Read "State" for Kingdom," "Representatives" for "Commons" and "Senate" for "House of Lords," and the passage applies with equal force to this proceeding. I contend that the Senate, when in the language of the Constitution it is sitting for the purpose "of trying impeachments," is legally another and a different body from the Senate when in the discharge of its legislative functions. That, when sitting for that purpose, it is erected into a judicial tribunal, and becomes at once, in the discharge of its high duty absolved from that connection with the House of Representatives, which exists between the two, as branches of the Legislature. But my able and ingenious adversary, while as I conceive, admitting all the premises from which I derive my conclusions, takes refuge in a kind of "*nivoluted*" theory. Admitting, as I think he does, that the Senate as a legislative body, and the Senate as a Court, each have a separate existence, he contends that the one existence is inferior to, and involved in the other; or in other words, that the Senate as a legislative body must be in a condition to exercise its functions, or else the Senate as a Court cannot exist. I confess, ingeniously as this view has been urged, I am at loss to see how the gentleman reconciles the invariable proceedings in impeachment cases with his theory. The invariable custom, so my examination of the cases leads me to believe, is for the Senate by solemn proclamation to pass from its legislative to its judicial capacity, and when its duties are discharged to return to its legislative character; as in many of the States where the distinction between Courts of law and Courts of equity still exists, and the same judge is vested with jurisdiction both at law and in equity. Still the Courts are different; so here it is the same body of men, but in the one case it is a Senate to enact laws and in the other a Senate—a Court to try "high and potent

offenders." Thus much I urge to show that the Senate although disqualified by the absence of the House of Representatives from exercising its legislative functions, still that disqualification of itself does not deprive it of its power and right to sit as a court.

But the gentlemen says it is the House of Representatives that should be here prosecuting; that the House exercises a delegated power, and he brings in a weighty maxim of the law to show "that delegated power cannot be delegated." I meet him here with the broad proposition that, for the purposes of this trial, neither the House of Representatives, or its managers, need be here prosecuting. The House of Representatives has "the sole power to impeach" by the Constitution. That power the House has exercised, and in the most solemn manner, "for themselves and on behalf of all the people of the State of Kansas" here, at your bar, the House of Representatives has impeached John W. Robinson of high misdemeanors in office. In due time the House filed its specific Articles of Impeachment, the accused was notified that he was impeached, and here, at your bar, he has pleaded to the Articles of Impeachment, and upon his plea the House has taken issue. The case is made—the literal constitutional duty is discharged—the accused is in your hands; and I claim that it would be your solemn duty, upon such evidence as might present itself, even though the House nor its managers—even though no one urged the prosecution—to hear and to try the issue joined. Certainly the defendant would have a right to a trial—might insist upon every principal of justice and of law—that the House should not thus asperse his fair fame, and leave him the poor boon of an unsatisfactory dismissal. But "precedent, precedent," cries the gentleman; "the whole round of English and American precedents are being violated;" and he solemnly urged and touchingly invoked you back "*antiquas vias*—into the ancient ways." I felt almost disposed to doubt the gentleman's republicanism, when I heard him dwell so lovingly on the pomp and ceremonial—the various "sticks in waiting"—and the awful paraphernalia which attended the trial of Warren Hastings, where the managers came to prosecute before the House of Lords, with the Commons of England at their back. We are told here, in solemn procession the House of Representatives of the United States attends its managers to the bar of the Senate when an impeachment is to be prosecuted. All this is very impressive—all this is exceedingly picturesque; but when the poor State of Kansas comes to prosecute her trusted officers for

the unlawful depletion of her pauper Treasury, we naturally inquire if all this expensive pomp—this mute array of some seventy members of the House of Representatives—is not a mere idle ceremonial, affecting in nothing the substantial rights of the people or the accused. This matter of impeachment is one of those extraordinary proceedings above precedent. There is no such thing as the common law of impeachment. Whenever a case is presented, rules are made conforming or not to the rules which may have been adopted in similar cases elsewhere, according to the good pleasure of the body before which the trial is to be had. This Senate—presuming always the substantial rights of the accused—might have made a precedent for itself; and it would have but followed the spirit of the age had it denuded the whole proceeding of all its superstitious formality. The grand spirit of progress, which has set every artery of commerce, trade, and art, throbbing with new life, has even at last crept through the misty ceremonies which, for so long, have enshrouded the law in mystery and dread, and instinct with fresh vigor, it now goes straight and sure in its high mission of administering justice. Forms, which, by centuries of growth, had entwined themselves in, and become almost a part of, the law, have been ruthlessly torn away; and now the great aim is to preserve the substance only, so that plain, speedy, and exact justice may be done to all. How much more should you, bound by no mystic tie to these ancient ceremonies, ignore them all, and stand in the simple majesty of your high position—the arbiter between the people and the accused—resolved only that substantial justice shall be done.

Even, however, if this question is to be arbitrarily decided upon precedent, I am not here so absolutely without authority as the gentleman charges. The precedents which have been here introduced, on the part of the defense, are purely negative. It is nowhere affirmatively decided that the Senate cannot sit in the absence of the House; on the contrary, in the State of Missouri, upon the trial of Jackson before the Senate, this question was, for the first time, raised, discussed, and decided; and it was there held that the Senate could sit for the purposes of the trial, in the absence of the House; and the case was so proceeded with and concluded. Here is a positive decision, in the cases cited by the defense. It appears simply that the practice has been different. I regret that I have not the case, as reported; but I well remember that the report was in the hands of Senators, at the time the adjournment

was had, and they will bear me out in my recollection of its contents, in so far as I have stated them. The provisions of the Constitution of the State of Missouri, on the subject of impeachment, are *verbatim et literatim* our own. The adjournment complained of, was not thoughtlessly had, as the gentleman presumes; but as I well know, after a mature and careful consideration of those very questions, which are now presented by the defense.

And now at last I come to the defendant's demand, that for the protection of his rights, the House of Representatives should be here, lest peradventure we, here prosecuting, should, in the hardness of our hearts, practice some oppression upon him. And again the inevitable Hastings is invoked—we are told how he petitioned the House of Commons, and how the House of Commons rebuked Mr. Burke, for some unlicensed language towards Mr. Hastings. So let the House of Representatives rebuke me, or the managers, if, in word or deed, we are betrayed into any injustice towards this defendant; but I presume the rebuke like a "rod in pickle," will be all the more severe by being kept until January next.

But do you want the House of Representatives, gentlemen of the defense? If so, I see here impeached and waiting his trial, Charles Robinson, Governor of the State of Kansas. To him the Constitution has fortunately given the high prerogative of convoking the House. Let him exercise that power, or let him and those accused with him, forever after hold their peace. The gentleman recites from Cushing's manual, to show that, by the Constitution of some of the States, the Senate is prohibited from trying impeachments during the session of the Legislature, and claims that this, upon the principle that "the expression of one thing is the exclusion of the other," is a clear recognition of the position that the Senate cannot, without express authority, sit in the absence of the House. The gentleman, had he more carefully studied this passage, would have seen that it makes clearly against his position—it is prohibitory and not permissive—it does not sanction the separate session of the Senate; but forbids the Senate from trying impeachments, while the House is in session.

If the gentleman's position is correct, then in the States where this provision exists, no trial on impeachment can be had at all. He says when, as in one State, the Constitution contains no express grant of power to the Senate to sit in the vacation of the Legislature, such session cannot legally be held. By the provision above

quoted, the Senate is prohibited from trying impeachments during the session of the Legislature; and there is an entire absence of expressed authority to sit for that or any other purpose in vacation. The gentleman's authority proves too much. .

The facts upon which the second objection is predicated, appear in the printed copies of the proceedings heretofore had in these cases. The Senate in its official capacity—sitting as a Court of Impeachment, having, on the 28th day of February, ascertained that no further proceedings could then be had at that time in the cases pending before it, adjourned as a Court, until the first Monday of June. It is contended that this was done without the consent of the House, and therefore violated that provision contained in Sec. 10 of Article 2, of the Constitution that “neither House, without the consent of the other, shall adjourn for more than two days, Sundays excepted.” This provision clearly applies to the Houses only when they hold to each other the relation created by vesting the Legislative power in them jointly—that is, when sitting as a Legislature.* The Constitution of the United States, in subdivision 4, of Sec. 5, of Article 1, contains a similar provision; yet in the case of Judge Chase, cited by the gentlemen themselves, tried before the United States Senate, the Senate as a Court adjourned to the next session, while the Senate as a legislative body still continued in session. In this case, the congressional annals fail to show any consent on the part of the House. So, upon reason and authority, I am satisfied to rest this branch of the case. But fortunately this objection seems to have been anticipated, and by a law, which has been read in your hearing, provided that the Senate should sit to try impeachments, when the House was not in session, and should adjourn from time to time. This law is somewhat rudely assailed as being unconstitutional in some of its parts; and surely it cannot be contended that in the consent it gave that the Senate should adjourn for more than two days, it is not constitutional. It went into effect, it is true, after the adjournment; but I contend, that even then, it ratified and confirmed the act of the Senate. There is another consent, however, which the gentleman has failed to discover. On the 27th, or 28th of February, the Committee of Investigation, who had had in charge the matters pertaining to these impeachments, and were most conversant with the testimony, fearing that the Senate might force the managers into trial at once, in the absence of material testimony, introduced into the House a resolution, which was passed,

instructing the managers to move in the Senate, that the trial of these impeachment cases should be postponed to the first Monday in June. Upon that resolution, the motion to adjourn was predicated. The Journals of the House cannot be had; but I have a right to refer to them as public records, and I am well aware, that in my recollection of this fact, I am borne out by members of this Court. Here then, is consent, if consent were needed. So that I claim there are two fatal defects in the second objection: First, consent is not necessary: Second, consent was given.

My answer to the last objection, I have necessarily, almost entirely anticipated. The Senate and House, according to invariable custom, by concurrent resolution, adjourned *sine die*, on the 6th day of March. By this act, the functions of the Legislature were suspended, so that they could not, by any act of the Legislature alone, be resumed. Taking the two acts of adjournment together, and following the rule, which prevails in Courts, of attempting to arrive at the intent of parties, and what was the evident intention here? If, as I contend, the legislative Senate has a legal existence, separate from the judicial Senate, then these two adjournments are perfectly reconcilable. If there is not this separate existence; but it is all the time, in every sense, in contemplation of law the same body, then I claim that the adjournment on the 28th of February, with the consent of the House, adjourned the Senate absolutely, to the first Monday of June. The gentleman must either admit the proposition of a separate, legal existence, for which I contend, or else the conclusion inevitably follows, that the adjournment of the 28th of February, carried with it both Court and Senate. The consent of the House, I claim, I have shown beyond controversy.

A single word, now, in reply to the outside talk in this case, and I have done. The gentleman brings here his solemn convictions that your proceedings will be a nullity. That, at the close of this trial, whether "guilty" or "innocent," shall fall from your lips, they will be mere cold words. That he to-day, with his associates comes here, as he would pause at the mention of a friend's name in a crowd, at the corners of the streets, to see that no harm be done his reputation by the vile breath of some passing slanderer. He talks of *quo warranto*, and other remedies, which his client has for testing this thing. He threatens that your sentence will not be executed.

My solemn convictions against his!

If ever man stood in mortal peril of all that which honest men most love, in that position stands his client to-day.* If you shall pronounce him guilty, it will be no mere stain upon his character. But by your sentence the word will be branded deep and ineffacable in burning letters upon his name and his fame forever.

Will he, as his counsel say, contend against your decree, should it be adverse to him? I pity, while I scorn the head and heart of the man, who, for a few days in a paltry office, will face the Courts of his country that he may, upon some technicality, defeat the righteous judgment of such an assembly as this. Yet if these charges be true—if he, indeed, be guilty—then let us not wonder at the lingering tenacity with which his fangs grasp the vitals of the State; and if you shall pronounce him free from guilt or guile in office, it will be the proudest earthly vindication that mortal man could have. If such shall be the issue, let him thank the Lord.

(The argument was closed in behalf of the respondent by Gov. Shannon, who declined to furnish the reporter with a copy of his remarks.)

On motion of Mr. Cobb, the Senate adjourned until to-morrow morning at 10 o'clock.

FOURTH DAY. MORNING SESSION.

SENATE CHAMBER, }
Thursday, June 5th, 1862. }

The Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the Chair.

Roll called.

Quorum present.

Absentees:—Messrs. Denman, Hoffman, Holliday, Lambdin, Lynde, Morrow, Sleeper and Stevens.

Mr. Steyens moved to amend Section Eleven (11) of the Rules to be observed in cases of impeachment, by inserting the words "except when in secret session," after the word "Senate."

Carried.

On motion of Mr. Cobb, the Chamber was ordered to be cleared, the doors closed, and the Senate went into secret session.

After some time spent therein, the doors were reopened, and the Senate resumed its usual order of business.

Mr. Stevens offered the following resolution, and moved its adoption :

Resolved, That the Senate will hold two regular sessions daily ; that the hours of meeting will be at 9 o'clock A. M., and 2 o'clock P. M ; that the hours of adjournment shall be at 12 M., and 5 P. M.

Mr. Denman moved to amend by inserting the hour "10 o'clock A. M.," instead of 9 A. M.

Lost.

The question recurring on the original resolution, it was adopted.

On motion of Mr. Stevens, the Senate adjourned.

AFTERNOON SESSION.

SENATE CHAMBER, }
Thursday, June 5, 1862, 2 o'clock P. M. }

Senate met pursuant to adjournment.

President in the Chair.

Roll called.

Quorum present.

Absentees—Messrs. Hoffman, Holliday, Lynde, McDowell, and Morrow.

Present :—Hon. S. A. Stinson, and the Board of Managers on the part of the House of Representatives.

John W. Robinson appeared by N. P. Case, Esq., one of the attorneys for the respondent.

Journal of yesterday read and approved.

The question being on the motion of respondent's counsel to dismiss the case against John W. Robinson,

The ayes and noes were taken, with the following result :

Those gentlemen voting No, were

Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs, and Mr. President.

And so the motion was lost.

On motion of Mr. Ingalls, the Senate took a recess of thirty minutes.

The time having expired, the Senate was called to order.

Mr. Stanton.—Mr. President:—After very serious consideration of the subject, in consultation with our client, we have determined, without acknowledging, in any way, the authority and legitimate organization of this body, to be here present and take such part in the proceedings as may be necessary for the protection of our clients. The acts of this body cannot possibly injure our client in a legal sense. We are disposed to see if this body will push this matter to the extreme. It was, perhaps, asking too much of them to demand that steps taken should be retraced. We shall remain and watch the proceedings.

Attorney General:—On behalf of the Board of Managers, I am requested to ask, through the President, in what capacity the gentlemen appear in this Court ?

The President.—The Attorney General will see, by reference to the rules, that defendants may appear, through counsel, in this Court. It is presumed that they so appear.

Mr. Stanton.—Certainly: we so appear. We could not be here in any other capacity.

Attorney General.—My question was called forth by the remarks previously made by Gov. Stanton.

Hon. Azel Spaulding, one of the Board of Managers on the part of the House of Representatives, in opening the case of the impeachment of John W. Robinson, said:—

Mr. President: It is with feelings of embarrassment that I find myself, in the absence of the Chairman, compelled to open this case in behalf of the prosecution; a case of such general interest and involving such momentous issues.

John W. Robinson, Secretary of State, by the honorable House of Representatives, has been charged with high misdemeanors in office. Articles of Impeachment have been properly prepared by that body, and, through its Board of Managers, presented to the Senate. This Court is convened for the discharge of these high and responsible duties, conferred upon it by the Constitution of the State; and the House of Representatives, by its Board of Managers, is now called upon to sustain the allegations made in the Articles of Impeachment. As these articles constitute the foundation of this case, I will take the liberty of reading them to the Court.

[Mr. Spaulding then read the Articles of Impeachment exhibited by the House of Representatives of the State of Kansas, in maintenance of their impeachment against John W. Robinson, Secretary of State, for high crimes and misdemeanors.]

Such, Mr. President, are the Articles of Impeachment upon which the House of Representatives has rested its case, and for the prosecution of which their Board of Managers now appear before this Court.

For the purpose of placing before the Court a complete statement of authority upon which we claim the right to impeach this party, I ask your attention to Art. 2d, Secs. 27-28 of the Constitution of this State, which read as follows:

“The House of Representatives shall have the sole power to impeach. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the Senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the Senators elected.

“The Governor and all other officers under this Constitution, shall be subject to impeachment for any misdemeanor in office; but judgment, in such cases, shall not be extended further than to removal from office or disqualification to hold any office of profit, honor or trust under this Constitution; but the party, whether

convicted or acquitted, shall be liable to indictment, trial, judgment and punishment, according to law."

The misdemeanor for which this defendant is called to answer, was caused by a violation of the provisions of an act entitled "An act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State," approved May 1st, 1861. I will not occupy the time of the Court in reading this law, but briefly state its provisions, which are familiar to all. The act authorizes the issue of State bonds to the value of one hundred and fifty thousand dollars, and provides for the sale of them under conditions named therein. Messrs. Clark and Stone were authorized to negotiate these bonds. A supplementary act was passed, entitled "An act supplementary to" the one to which I have just alluded, which was approved June 3d, 1861. This act made it the duty of the Treasurer to prepare one hundred thousand dollars of the bonds provided for in the first law. The Governor, Auditor and Secretary of State, were authorized, or a majority of them, to negotiate the sale of these bonds, providing, however, that they *should not be sold for less than seventy cents on the dollar.*

I would also call the attention of the Court to "An act to authorize the State of Kansas to borrow money to repel invasion, suppress insurrection, and to defend the State in time of war," approved May 7th, 1861. This law authorizes the Treasurer to borrow twenty thousand dollars, by issuing bonds of three hundred dollars each, and bearing interest at ten per cent per annum.

It will be noticed, Mr. President, that the Articles of Impeachment embrace these different subjects, which are set forth as read to the Court. The prosecution expect to prove, substantially, each and every allegation we have presented. Before going into the argument and proof, I think it will be well to read the following, from Judge Story's comments on the United States Constitution, (page 553, chap. x.) which is as follows:

"The next inquiry is, what are impeachable offenses? They are 'treason, bribery, or other high crimes and misdemeanors.' For the definition of treason, resort may be had to the Constitution itself; but for the definition of bribery, resort is naturally and necessarily had to the common law, for that, as the common basis of our jurisprudence, can alone furnish the proper exposition of the nature and limits of this offense.

"The only practical question is, what are to be deemed high crimes and misdemeanors? Now, neither the Constitution nor any statute of the United States has, in any manner, defined any crimes, except treason and bribery, to be high crimes and misdemeanors, and, as such, impeachable. In what manner, then, are they to be ascertained? Is the silence of the statute book to be deemed conclusive in favor of the party, until Congress have made a legislative declaration and enumeration of the offenses, which shall be deemed high crimes and misdemeanors? If so, then—as has been truly remarked—the power of impeachment, except as to the two expressed cases, is a complete nullity; and the party is wholly dispensable, however enormous may be his corruption or criminality.

"It will not be sufficient to say that in the case where any offense is punished by any statute of the United States, it may and ought to be deemed an impeachable offense. It is not every offense that, by the Constitution, is so impeachable. It must not only be an offense, but a *high* crime and misdemeanor. Besides, there are many most flagrant offenses which, by the statutes of the United States, are punishable only when committed in special places, and within peculiar jurisdictions, as, for instance, on the high seas or in forts, navy-yards and arsenals ceded to the United States.

"Suppose the offense is committed in some other than these privileged places, or under circumstances not reached by any Statute of the United States, would it be impeachable?

"Again, there are many offenses purely political, which have been held to be within the reach of parliamentary impeachments, not one of which is in the slightest manner alluded to in our Statute Book. And, indeed, political offenses are of so various and complex a character—so utterly incapable of being defined, or classified, that the task of positive legislation would be impracticable, if it were not almost absurd to attempt it. What, for instance, could positive legislation do in cases of impeachment, like the charges against Warren Hastings, in 1788? Resort, then, must be had either to parliamentary practice and the common law, in order to ascertain what are high crimes and misdemeanors; or the whole subject must be left to the arbitrary discretion of the Senate, for the time being.

"The latter is so incompatible with the genius of our institutions, that no lawyer or statesman, would be inclined to countenance so absolute a despotism of opinion and practice, which might make

that crime at one time, or in one person, which would be deemed innocent at another time, or in another person. The only safe guide in such cases, must be the common law, which is the guardian at once of private rights, and public liberties. And however much it may fall in with political theories of certain statesmen and jurists, to deny the existence of a common law, belonging to, and applicable to the nation, in ordinary cases, no one has as yet been bold enough to assert that the power of impeachment is limited to offences positively defined in the Statute Book of the Union, as impeachable high crimes and misdemeanors.

"The doctrine, indeed, would be truly alarming that the common law should not regulate, interpret and control the powers and duties of the Court of Impeachment. What otherwise would become of the rules of evidence, the legal notions of crimes, and the application of principles of public or municipal jurisprudence, to the charge against the accused? It would be a most extraordinary anomaly, that while every citizen of every State originally composing the Union would be entitled to the common law as his birthright, and at once his protector and guide; as a citizen of the Union, or an officer of the Union, he would be subjected to no law, to no principles, no rules of evidence. It is the boast of English jurisprudence and without it, the power of impeachment would be an intolerable grievance, that in trials by impeachment, the law differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments prevail. For impeachments are not framed to alter the law, but to carry it into more effectual execution, where it might be obstructed by the influence of too powerful delinquents, or not easily discerned in the ordinary course of jurisprudence, by reason of the peculiar quality of the alleged crimes. Those who believe that the common law, so far as it is applicable, constitutes a part of the law of the United States in their sovereign character as a nation, not a source of jurisdiction, but as a guide and check, and expositor of the administration of the rights, duties and jurisdiction conferred by the Constitution and laws, will find no difficulty in affirming the same doctrines to be applicable to the Senate, as a Court of Impeachment. Those who denounce the common law as having any application or existence in regard to the national government, must be necessarily driven to maintain that the power of impeachment is, until Congress shall legislate, a mere nullity, or that

it is despotic, both in its secrets and in its proceedings. It is remarkable that the first Congress, assembled in October, 1774, in their famous declaration of the rights of the Colonies, asserted that the respective Colonies are entitled to the common law of England; and that they are entitled to the benefit of such of the English Statutes, as existed at the time of their colonization, and which they have by experience respectively found to be applicable to their several local and other circumstances. It would be singular enough, if in their framing a national government, the common law so justly dear to the Colonies as their guide and protection, should cease to have an existence as applicable to the powers, rights and privileges of the people, or the obligations and duties, and powers of the departments of the national government. If the common law has no existence as to the Union as a rule or guide, the whole proceedings are completely at the arbitrary pleasure of the government and its functionaries, in all its departments.

"Congress has unhesitatingly adopted the conclusion, that no previous Statute is necessary to authorize an impeachment, for any official misconduct; and the rules of evidence, as well as the principles of decision, have been uniformly regulated by the known doctrines of the common law, and parliamentary usage. In the few cases of impeachments which have hitherto been tried, no one of the charges has rested upon any statutable misdemeanors. It seems then, to be the settled doctrine of the high Court of Impeachment, that though the common law cannot be a foundation of a jurisdiction not given by the Constitution or laws, that jurisdiction when given, attaches, and is to be exercised according to the rules of the common law; and that what are, and what are not high crimes and misdemeanors, is to be ascertained by a recurrence to that great basis of American jurisprudence. The reasoning by which the power of the House of Representatives, to punish for contempt, (which are breaches of privileges and offenses not defined by any positive laws) has been upheld by the Supreme Court, stands upon similar grounds; for if the house had no jurisdiction to punish for contempts until the acts had been previously defined and ascertained by positive law, it is clear that the process of arrest would be illegal.

"In examining the parliamentary history of impeachments, it will be found that many offenses, not easily defined by law, and many of a purely political character, have been deemed high crimes and

misdeamors worthy of this extraordinary remedy. Thus Lord Chancellors and Judges, and other Magistrates, have not only been impeached for bribery, and acting grossly contrary to the duties of their offices, but for misleading their Sovereign by unconstitutional opinions, and for attempt to subvert the fundamental laws and introduce arbitrary power. So, where a Lord Chancellor has been thought to have put the great seal to an ignominious treaty; a Lord Admiral to have neglected the safeguards of the sea; an Ambassador to have betrayed his trust; a Privy Counsellor to have propounded or supported pernicious and dishonorable means, or a confidential adviser of his Sovereign to have obtained exorbitant grants or incompatible employments—these have been all deemed impeachable offenses.

“Some of the offenses, indeed, for which persons were impeached in the early ages of British jurisprudence until now, seem harsh and severe; but, perhaps, they were rendered necessary by existing corruptions, and the importance of suppressing a spirit of favoritism and Court intrigue. Thus, persons have been impeached for giving bad counsel to the King; advising a prejudicial peace; enticing the King to act against the advice of parliament; purchasing office; giving medicine to the King without the advice of physicians; preventing other persons from giving counsel to the King, except in their presence, and procuring exorbitant personal grants from the King. But others, again, were founded in the most salutary public justice—such as impeachments for malversation and neglect in office; encouraging pirates; for official oppression, extortions and deceits; and especially, for putting good magistrates out of office and advancing bad. One cannot but be struck in this slight commiseration with the utter unfitness of the common tribunals of justice, to take cognizance of such offenses, and with entire propriety of confiding the jurisdiction over them to a tribunal capable of understanding and reforming and scrutinizing the polity of the State, and of sufficient dignity to maintain the independence and reputation of worthy public officers.”

For the purpose of having before us the leading landmarks which will govern this case, I have been induced to step aside, perhaps, from established practice in opening, and read these comments of America's greatest and most profound jurist.

In relation to the first article of impeachment, we expect to produce evidence to cover not only that, but every other count charged in the several articles. It will be admitted by every officer and

citizen that at the time of the passage of the act alluded to, that the treasury of the State needed replenishing. This defendant, John W. Robinson, with the Auditor and Governor, were duly appointed by the State its agents to negotiate the sale of her bonds to the amount of \$100,000. We expect to prove that they accepted this trust, and that in it they were limited by the law. We shall prove that these officers held a meeting in relation to the negotiation of these bonds, at which the Governor gave to Mr. Hillyer (Auditor) and the defendant, authority to act for him. Whether this was verbal or written, the evidence will, in the course of the investigation, disclose. Mr. Hillyer and this defendant, constituting a majority of the board, went to Washington, and there met Mr. Robert S. Stevens, and without attempting to perform the duties devolving upon themselves in negotiating the bonds, they then appointed Mr. Stevens agent of the State. This act was in violation of law, they being only the agents of the State, without power to delegate that authority. This act we regard as indicative of some collusion in the matter. We shall prove that prior to the appointment of Mr. Stevens by them, they ascertained that the bonds could be sold for eighty-five cents on the dollar, and that after being in possession of this knowledge, they agreed with Mr. Stevens to allow him all over sixty cents on the dollar that he might receive. This, also, was in violation of law, and a perpetration of a great fraud upon the State. In proving these facts we expect to satisfy this Court that this defendant, with Governor Robinson, Mr. Hillyer, Auditor, and Mr. Stevens entered into a conspiracy, willfully and knowingly, to defraud the State. We also expect to show that the defendant and the Auditor were cognizant of all the steps taken in the sale of the bonds by their agent, falsely assumed by them to be the agent of the State. Showing this conspiracy, we shall ask this Court to hold the defendant responsible for each and every act of Stevens, touching the negotiation and sale of these State bonds.

The presentation of this evidence will show that the consent of the Senators and Representatives in Congress had to be obtained before the sale could be completed. In obtaining this, the defendant, sometimes with Mr. Stevens and sometimes without, held interviews with them, in order to obtain their consent. We shall prove that Senator Pomeroy's consent could be obtained only with great difficulty, which was also the case with Gen. Lane. It will

be a question for consideration, through the evidence, whether Gen. Lane's signature was ever obtained. It will be shown that Lane refused to move if Stevens had anything to do with it. It will be shown that that signature was only obtained, if obtained at all, by a bribe of \$1000, given by Stevens to one Reynolds. If we prove this fact, as we expect, we shall claim its weight in proving the existence of this conspiracy, and that this defendant was guilty of corruption. *The stake at issue must be large which would induce the giving of such a bribe to the Private Secretary of one of our Senators*

In presenting testimony upon the second and other articles of impeachment, we shall prove that John W. Robinson, the defendant, did, as Secretary of State, commit a misdemeanor in the willful neglect of his duty relating to the issue of the War Bonds. The State authorized the issue of bonds to the amount of \$20,000 for war purposes. It is familiar to you all, that these bonds were confidently expected to sell at par. They were issued under such an impression, and the amount was thus limited. The defendant did suffer the issuing of \$40,000 of these bonds, whereby the State suffered a loss, and was defrauded. We expect to prove that in consequence of these acts by the defendant, \$31,000 of these bonds were put in circulation, sold at a discount, and at a loss to the State of near \$10,000. It may be said that this defendant did not control this issue, and that these bonds were not in his possession. This plea, we think, will fail to shield him, as it was his duty to countersign them, and he must have been fully aware of the amounts issued. In proving this we shall charge the defendant with misdemeanor.

We expect to show that the defendant knowingly audited a printing bill, presented by one J. F. Cummings, who claimed to have published the Banking Law, passed by the State Legislature of 1861, in a newspaper of this State, which we will prove never had existence. The amount of the bill was \$344, and was unlawfully taken from the State Treasury, through the agency of the defendant. For this act we charge the defendant to have been guilty of a misdemeanor. All these articles and allegations we expect to prove by ample evidence.

In appearing to answer these charges the defendant enters a plea of "Not Guilty." The House of Representatives, through its Board of Managers, in behalf of all the people of the State of Kansas, assume the affirmative, and are here in Court to proceed

with the trial. If one half of the evidence alluded to shall be forthcoming, we feel confident that you will be warranted in pronouncing a conviction. If the defendant can establish his innocence, his country will rejoice. If conviction justly follow, the State will, by this tribunal, be relieved of an unworthy officer, and the Board of Managers will feel that they have properly discharged those responsible duties conferred upon them by the Hon. House of Representatives.

With these remarks, Mr. President, I submit the case to the adjudication of a body of officers, in whom we all have confidence, and whose duties are plainly written in our organic law.

Hon. W. R. Wagstaff, on the part of the Board of Managers, rose to read the depositions.

Hon. Wilson Shannon, for the defense, said :

Mr. President: The prosecution presents here a number of depositions taken in Washington as evidence in this case. Nothing appears on the face of them to show that these witnesses were sworn in the case of John W. Robinson.

Gov. Shannon read the certificate of the Notary Public attached to it, and proceeded.

May it please the Court: This certificate cannot be considered sufficient. It is true these witnesses were sworn "the truth, the whole truth," but they were not sworn to do so in the case of the "State of Kansas, vs. John W. Robinson." I think this objection is fatal to their validity. The title should, but does not, appear anywhere on these documents. Counsel for the defense do not press the objection, but desire to call the attention to the subject.

Mr. Cobb.—Does the title of this case appear nowhere but in the notices served on witnesses?

Gov. Shannon.—No sir.

Attorney General.—May it please the Court: Counsel raise this objection now. It should have been done before the depositions were admitted for reading. This will be seen by reference to Section 395 of the Code of Civil Procedure for the State of Kansas.

Gov. Shannon.—We do not raise any objection, though not considering that the rule mentioned covers this case.

Hon. W. R. Wagstaff proceeded to read the depositions.

DEPOSITION OF GEN. LANE.

April 29, 1862.

Hon. J. H. Lane, of lawful age, being by me duly sworn, cautioned and examined, deposeeth and saith as follows :

First Interrogatory.—What is your name, age, occupation, and your place of residence?

Answer.—My name is James H. Lane, residence at Lawrence, in the State of Kansas, lawyer by profession, and now a representative from the State of Kansas in the Senate of the United States, and in the 43d year of my age.

Second Interrogatory.—Will you state, if you please, what you know in relation to the sale of Kansas State bonds to the Department of the Interior?

Answer.—I arrived at Washington on the first day of the present session of Congress. Soon after my arrival, Geo. S. Hillyer, Auditor, and J. W. Robinson, Secretary of State, called on me and informed me that they had arranged with the Secretary of the Interior for the sale of Kansas State bonds; that the matter was then before the President and desired me to wait upon the President and make an appeal to him in favor of the sale. They informed me, among other things, that unless the sale was made, the State Government must stop; that they could not purchase stationery or pay the members of the Legislature. Pursuant to the then request, I did wait upon the President and urged the purchase as indispensable to the running of the State Government.

Third Interrogatory.—Prior to the sale of the bonds on the 20th of December, 1861, had you any conversation with the Secretary of the Interior upon the subject, and did you know the price he was willing to pay for the bonds?

Answer.—I had several interviews with the Secretary of the Interior on the subject, before and after the requisitions for the money were issued. My friends from Kansas outside, were earnest in their efforts to convince me that the sale should not be made, and if made, the money would be divided and the State defrauded, urging, among other things, that Bob Stevens and Gov. Charles Robinson would have the controlling of the money. Acting on my fears, excited by them, I frequently conversed with Hillyer and J.

W. Robinson on the subject of Stevens and Charles Robinson's connection with the transaction. They as frequently assured me, in the most emphatic manner, that neither Stevens or C. Robinson had anything to do with the matter, directly or indirectly, except in this, that in one conversation Hillyer said that perhaps there was a small sum due Gov. Robinson on his salary, which he could draw out, as other creditors, on a warrant in his favor. While this was going on, I sought the Secretary of the Interior and expressed my fears that the money would be diverted. I suggested to him that the bulk of the money should be deposited with my colleague, Gen. Pomeroy, or left with him to be drawn out on the order of the Legislature, except five hundred dollars, which Hillyer and J. W. Robinson said was necessary to fit up the rooms of the Legislature, and for purchasing stationery. I never heard, from the Department of the Interior, or from any other source, until my arrival in Topeka, in Kansas, the real price for which the bonds were sold. Hillyer and John W. Robinson informed me in Washington, that they could get or had got two cents over the minimum price fixed by law, which would be seventy-two cents. After the issue of the requisition, I saw the Secretary of the Interior and urged upon him to suspend the payment of the money. I also saw the President and urged him to suspend the payment of the money until the Legislature had met and taken action on the subject.

Fourth Interrogatory.—Did you know, at that time, that any arrangement was made by which R. S. Stevens, or any other party representing the State, would sell these bonds for eighty-five cents on the dollar, and only account to the State for sixty cents on the dollar?

Answer.—I have before stated that I did not know, until after my arrival at Topeka, in Kansas, the price the Interior Department paid for the bonds. Hillyer and J. W. Robinson, as I have before stated, assured me at divers times during the negotiations, and after the requisitions were issued, that Stevens and Charles Robinson had no connection with the transaction; they pledged me in the most solemn manner, that neither Stevens or Charles Robinson should see the money, touch the money, or know where it was kept. These pledges were made at a suggestion from me that although the Auditor and Treasurer were ever so honest, these rogues would manage to steal the money. Hillyer, among other things, proposed to carry the money to Kansas himself, and keep it until the legis-

lature met. It was distinctly understood that the State was to receive every cent of the proceeds of the sale of the bonds to the Interior Department. On one occasion, I asked Hillyer how he was to be paid his expenses in effecting the negotiation; he told me he had to depend upon the Legislature for that. I told him, in that conversation, that if I was in Topeka, at the time, I would help him to get a liberal appropriation.

Fifth Interrogatory.—Will you state the circumstances under which you, with Senator Pomeroy and Representative Conway, signed the communication to the President of the United States, dated December 16th, 1861, in which R. S. Stevens was stated as the agent of the State for the sale of these bonds, and in which you urged their purchase by the Government? (See official copy of letter attached to deposition of R. G. Corwin, marked A, and which is recognized as an authenticated paper.)

Answer.—I state, that until my return to Kansas, I never heard R. S. Stevens' name mentioned as agent for the sale of the bonds; that if I had known that he or Charles Robinson had anything to do with the sale, or the proceeds of the bonds, or had any connection with it, I would have opposed the sale with all the energies of my nature; at the time the sale was going on, I expected to be a candidate for re-election to the Senate before the Legislature, and knew that if they had any contract of the money, it would be used against me in the election. I signed a paper under the following circumstances: Shortly after my arrival, George Reynolds presented a paper for my signature. I retained it sometime, and, without examining it, returned it to him without signing it, and declining to do so. Some days after, George S. Hillyer, John W. Robinson, and Bob Stevens in the rear, came to my room in the Avenue House. Stevens with them caused my anger. I told them to go away; that I would have nothing to do with their negotiations, unless they would come without the company of that damned thief, Bob Stevens. They went away and came back the same or the next day, with a paper which they said was directed to the President, requesting him to let them have the money; that they had got the signature of Mr. Pomeroy and Mr. Conway, and all it wanted was my signature, as the President and Secretary, or both, wanted the signatures of the entire delegation, before they would give the money. Since my return to Washington, I have examined the paper referred to, as on file in the Indian office; my name appears upon it as between Gen.

Pomeroy and Mr. Conway. It is a good imitation of my signature, yet I do not believe that I ever affixed my signature to that paper, as it stands. Either R. S. Stevens' name has been added to the paper since the signature, or my signature has been added or placed there by some one else, to the best of my belief, and my reasons for this opinion are these: It is scarcely possible that, after driving Hillyer and Robinson from me, because Stevens was in their company, they would have the audacity to present me, in so short a time, with a paper with his name in it. My signature appears on the paper between Pomeroy's and Conway's, as if I had signed it before Conway. When they brought the paper they told me that Pomeroy and Conway had signed it, and that if the negotiation failed, the responsibility would rest on me alone, my signature being indispensable to the negotiation. I am confident that Pomeroy and Conway's signature were on the paper when I signed it. I have conversed with Mr. Conway since I have arrived here on the subject. He is confident that Mr. Pomeroy's and my signature were on the paper when he signed it. If this be true, my name is a forgery. To arrive at the conclusion that the paper is genuine, you must conclude that Hillyer and Robinson presented to me a paper for my signature, which they well knew I would not sign, if I read it, and that I did sign it without reading, for, under no circumstances, would I have consented to the negotiation if I had known that Stevens or Charles Robinson had anything to do with it. I believe them to be in partnership, and have no confidence in their integrity. (Here counsel for defendant objects to this answer, in so far as it is based on hearsay and belief, and further because it is not responsive to the question.) My signature could not have been obtained to any paper forwarding these negotiations, if I had not been assured by Hillyer and Robinson first, that every dollar of the money, except \$5,000 which was to be used for purchasing stationery and fixing the legislative rooms, was to be placed under the control of the Legislature then about to meet, and that Stevens and Charles Robinson had nothing to do with it.

Sixth Interrogatory.—Were you ever in the habit of signing your name to papers presented to you without examining their contents?

Answer.—At the time this negotiation was going on, I had my senatorial duties to discharge, my contest with Mr. Stanton to attend to, together with superintending an expedition to the Southwest. It is barely possible that I may have signed that paper without

reading it. I frequently sign papers, when presented by persons in whom I have confidence, and when their contents were stated, without reading.

Seventh Interrogatory.—Was your attention called to this particular letter before your departure from Washington?

Answer.—I think not. I never heard of the robbery until I reached Kansas.

Eighth Interrogatory.—Would you have objected to Mr. Stevens acting as agent for the State, if you were satisfied that he would exercise no control over the money?

Answer.—I would.

Ninth Interrogatory.—Will you state what representations G. W. Reynolds made, at the time he handed the paper for signature?

Answer.—I think he said it was a recommendation for the sale of State bonds.

Tenth Interrogatory.—Did he intimate to you, or did you know at that time, that he had been offered, by R. S. Stevens, or any other person, one thousand dollars, or any other named consideration, for obtaining your signature to that paper, or do you now know that any such consideration was ever offered?

Answer.—I never heard of such a thing until my arrival at Topeka. Had such a representation been made to me by Reynolds or any other man, I would have spurned him from my presence as unworthy of my friendship.

Eleventh Interrogatory.—What were the circumstances inducing you to send the following communication to the Secretary of the Interior, dated the 19th day of December, 1861? [Official copy marked 13 and attached hereto; exhibit No. 1.]

Answer.—My friends here were insisting strenuously that Stevens and Robinson would get hold of the money and defraud the State, and use the money against me in the Senatorial election, which we then thought would come off. To defeat this, the first plan was to have the money deposited in the hands of my colleague, General Pomeroy, except the five thousand dollars, before spoken of, to buy stationery, to be drawn out by direction of the Legislature when it should meet. I subsequently arranged with Mr. Smith, the Secretary of the Interior, to retain it in his own hands, and pay it out in installments after the Legislature had met. On the 18th day of

December, I was confirmed as Brigadier General, and expected to leave for Kansas immediately. The paper spoken of was dated on the 19th day of December, 1861, and filed (with the expectation of my having to leave Washington immediately) for the purpose of sending the money to Kansas by some safe hand, to be selected by Messrs. Pomeroy and Conway, giving them, so far as I could, the sole direction of the money.

Twelfth Interrogatory.—Did you know that the act of the Kansas Legislature, authorizing the issue of these seven per cent. bonds, limited the price for which they were to be sold, to seventy cents on the dollar, and that there was no authority rested on the said officers to sell them at a less rate?

Answer.—I knew nothing about it, except what I heard from Hillyer and Robinson. In one conversation, they said they could sell the bonds for two cents over the minimum price fixed by law, which I understood from them was seventy cents.

Thirteenth Interrogatory.—Did you know anything about the issue of thirty-four thousand dollars, with ten per cent. war debt bonds, by the State officers, when the law authorized the issue of but twenty thousand dollars of such bonds?

Answer.—In the Spring of 1861, I went from here to Topeka, through Leavenworth, with verbal orders from the War Department to raise two regiments for an expedition to go into the Indian country. The Legislature was then in session in Topeka. I saw Gov. Robinson and others, and it was determined to issue \$20,000 of bonds to aid in organizing the two regiments. I had a bill drawn up for that purpose, and, as an inducement for its passage, said to the members and others that the bonds could be used at Leavenworth at their par value, and my understanding was that the bill passed in view of that fact.

Fourteenth Interrogatory.—Do you know whether any offer was made to the State officers to purchase these bonds, or any part of them, at their par value?

Answer.—I only know it from hearsay. Gentlemen joined with me in saying that the bonds could be used at Leavenworth at par, the time the bill was passing; that subsistence, and what was needed for the troops, could be purchased with them.

Fifteenth Interrogatory.—Please state the nature of the conversation you had with Senator Pomeroy, prior to your leaving

Washington, as to his taking charge of the fund realized from the sale of the bonds.

Answer.—He consented to the plan, and was willing to take charge of the money.

CROSS EXAMINED BY THE DEFENDANT'S COUNSEL.

First Interrogatory.—In your answer to third interrogatory above, you speak of certain outside friends of yours, who advised you to oppose the negotiation for selling the bonds. Please state who those persons were, and name those you recollect.

Answer.—Gen. Stone, I. J. Weed, John C. Vaughn, Champion Vaughn, and others, whom I do not now recollect. They advised me to oppose it, on the ground that they feared the State would be defrauded.

Second Interrogatory.—Did you protest against the payment of the money to R. S. Stevens, both before and after the negotiation had been completed?

Answer.—The friends of whom I speak, as well as myself, feared that Stevens and Robinson would get hold of the money in some way from the Auditor and Treasurer. While opposing the money going in any way they could get hold of it, I was willing it should be realized and held here until the Legislature could get hold of it. I never knew that there was any attempt being made to pay the money directly to them. I went to the Secretary and President and requested them to suspend the payment of the money on the requisitions. I think I could and I certainly would prevent the payment of the money if I had thought that Stevens had anything to do with it. During all this time, almost daily, Hillyer and J. W. Robinson were pledging me that Stevens and Charles Robinson had nothing to do with it.

Third Interrogatory.—You say you feared that Stevens would get the money in some way. How do you suppose he would get it after it went into the State Treasury?

Answer.—Stevens had a bank in Lawrence. I knew Charles Robinson was Governor, and his partner, Dutton, the Treasurer, was indebted to Robinson for his office. I knew their influence over Dutton, their cunning and dishonesty, and feared that they would get hold of the money by improper means and influence. They would induce Dutton to deposit the money in their bank, or persuade him to loan it to them, and expressed these fears to Hillyer, and

solicited from him a pledge that they should not know where the money was kept, if it was obtained.

Fourth Interrogatory.—When you went to Kansas last January, did you converse with George Reynolds on the subject of the offer made him by R. S. Stevens, for the purpose of getting your names to the paper, which purports to be signed by Gen. Pomeroy, yourself and Mr. Conway?

Answer.—I do not remember that I ever did. I saw his testimony given before the committee while there.

Fifth Interrogatory.—Was George Reynolds a member of the Legislature of Kansas? and had he been elected prior to the commencement of the present session of Congress?

Answer.—He was, and was elected in October or November.

J. H. LANE.

Sworn to before me,
N. CALLAN, Notary Public.

DEPOSITION OF ROBERT G. CORWIN.

Robert G. Corwin, of Dayton, Ohio, an attorney at law, of lawful age, being by me first duly examined, cautioned and solemnly sworn, deposeth and saith:

First Interrogatory.—Were you employed by J. W. Robinson, Secretary of State, or George Hillyer, Auditor of the State of Kansas, to negotiate the sale of certain State bonds belonging to the State of Kansas, to the Interior Department, or ever approached by them in relation to such sale, and if so, when?

Answer.—I was not employed by them. I was employed by R. S. Stevens. I had frequent interviews with J. W. Robinson and George Hillyer, but do not recollect to ever have seen them before.

Second Interrogatory.—At what time did you first see these parties?

Answer.—I cannot state with certainty at what time I first saw them. It was about the first of December, 1861. It was after Mr. Stevens arrived in this city. I was employed by him, and he

introduced me to them, the said J. W. Robinson and George S. Hillyer.

Third Interrogatory.—Were you employed by R. S. Stevens to sell these bonds, and did he represent to you that he was the agent of that State, with authority to sell them, or did he represent to you, or did you know that he was the owner of these bonds?

Answer.—I was employed by him to sell the bonds. He represented to me that the State owned eighty-seven thousand dollars of the one hundred and fifty thousand, issued by the State of Kansas, and that he was here to sell them. I advised that the whole one hundred and fifty thousand dollars should be procured and sell them to the Government. He told me that he owned a part of the balance of the bonds, and he thought he could get the rest, and he proposed the whole to the Government, and did so sell it.

Fourth Interrogatory.—Did you make the same declaration, at any time, to J. W. Robinson or George S. Hillyer?

Answer.—Yes, I did.

Fifth Interrogatory.—Did you know when and through whom his authority as agent was derived?

Answer.—He showed me a power of attorney, purporting to be executed by the Governor, Auditor and Secretary of the State of Kansas; also a copy of the law which made them commissioners to sell the bonds.

Sixth Interrogatory.—Do you know anything of the sale of these bonds to R. S. Stevens.

Answer.—I know but little about the arrangements between the officers of the State and Mr. Stevens. I don't know that he bought them or not. I represented him to the Government as the agent of the State for the sale of the bonds, and I suppose he was acting in that capacity, so far as the eighty-seven thousand of the bonds were concerned.

Seventh Interrogatory.—Were you approached by any other parties from the State of Kansas in relation to the sale of these bonds? If so, please note the facts.

Answer.—I had frequent conversation with the delegation here in the Senate from Kansas, Messrs. Lane and Pomeroy, and I do not now remember any other person from Kansas approaching me or saying anything on the subject. I consulted with Gen. Pomeroy

in company with Mr. Stevens, before the arrival of Gen. Lane. I think Mr. J. W. Robinson and George S. Hillyer, accompanied Stevens and myself to Gen. Pomeroy's room. Gen. Pomeroy, Stevens and myself, retired to a private room to consult on the subject of the sale of the bonds, leaving the State officers in the room with Mrs. Pomeroy.

Eighth Interrogatory.—What representations in relation to the sale of those bonds did you make to J. W. Robinson or Geo. S. Hillyer prior to the sale to the Department on the 20th of December, 1861?

Answer.—Messrs. Robinson and Hillyer were frequently present at our interviews in relation to the sale of the bonds, but I don't remember what representations were made in their presence. I conversed freely when they were present, as when they were not, and I supposed they knew how the business progressed from the beginning to the end.

Ninth Interrogatory.—Were they cognizant of the arrangement between R. S. Stevens and yourself?

Answer.—They knew that Mr. Stevens had employed me to assist in the sale of the bonds. They were not advised by me of the terms of the arrangement between Mr. Stevens and myself.

Eleventh Interrogatory.—Did J. W. Robinson or Geo. S. Hillyer make any proposition to you as to compensation for the sale of the bonds?

Answer.—They never did.

Twelfth Interrogatory.—Do you know anything of the withdrawal of the coupons from these bonds prior to their sale to the Department on the 20th December, 1861. Such coupons being for the semi-annual interest due January 1, 1862?

Answer.—The bonds were not delivered to the Government until a few days before the coupons were due. Only a part of the money was then to be paid. It was therefore agreed that the coupons should be taken off, and the interest account stated and settled when the balance of the money would be paid.

Thirteenth Interrogatory.—Did J. W. Robinson and George S. Hillyer know these facts, and consent to the arrangements?

Answer.—I don't know that they did. The arrangement was made between the Secretary of the Interior and myself. I advised Mr. Stevens of it, and he took the coupons off the bonds. I have

no recollection of having said anything to any one else on the subject.

Fourteenth Interrogatory.—Did you believe that these coupons belonged to the State of Kansas?

Answer.—I supposed that Mr. Stevens was acting for the State of Kansas, and if so the coupons belonged to the State. If he was the owner of the bonds, then the coupons belonged to him.

Fifteenth Interrogatory.—Did J. W. Robinson or G. S. Hillyer, show anything as to the price for which these bonds were to be sold; or was the subject ever referred to in your several interviews with them?

Answer.—I have no recollection of the subject ever being discussed when they were present, and I do not know whether they ever knew the price or not.

Sixteenth Interrogatory.—What interest, if any, did you suppose J. W. Robinson, Secretary of State, and George S. Hillyer, Auditor of the State of Kansas, held in these bonds?

Answer.—They were here as the financial officers of the State, and until the matter was brought before the Kansas Legislature, I had no idea that they had any personal interest in it. I knew nothing on the subject except what was published in the newspapers in connection with the investigation before the Kansas Legislature.

Seventeenth Interrogatory.—At what price did you tell R. S. Stevens the bonds could be sold, and at what time during the negotiations?

Answer.—The price was not agreed upon until a short time before the transaction was closed up. I then told him I could get eighty-five cents on the dollar, and he told me to take it.

Eighteenth Interrogatory.—Do you know anything about the ante-dating the authority conferred by C. Robinson, Governor, J. W. Robinson, Secretary of State, or G. S. Hillyer, Auditor, on R. S. Stevens, appointing him the agent of the State of Kansas, to sell these bonds, which authority was dated October 25th, 1861, yet executed in Washington in December, 1861, by J. W. Robinson and G. S. Hillyer?

Answer.—I do not.

CROSS INTERROGATIONS BY DEFENDANT'S COUNSEL.

First.—Do you know whether Gen. James H. Lane, Senator from

Kansas, advised or approved the arrangement for the sale of the bonds?

Answer.—I believe he did.

Second Cross-Interrogation.—Did you at any time converse with him on the subject, and did he know that R. S. Stevens was agent for negotiating the bonds?

Answer.—We had frequent conversations on the subject while the negotiations were pending. I drafted a letter addressed to the President for the signatures of Gen. Lane, Pomeroy and Conway. In that letter it was recited that Stevens was the agent of the State of Kansas. Mr. Stevens copied that draft and brought it back to me with the signatures of Messrs. Lane, Pomeroy and Conway.

Third Cross-Interrogatory.—I present a copy of that letter certified by the seals of the Interior Department, marked Exhibit 4; please state if that is the letter you refer to in your last answer?

Answer.—It has been a good while since I drafted the letter, but I believe it to be a true copy of the letter referred to in my last answer.

Fourth Interrogatory.—Are you acquainted with the hand writing of Gen. Lane, if so, please state whether the original of this paper when returned to you, was signed in the proper hand writing of Gen. Lane?

Answer.—I am somewhat familiar with his hand writing. When the paper was returned to me, I had no doubt as to the genuineness of all the signatures to it. Recently I understood, that Gen. Lane denied that his signature was genuine. I have since examined it with a great deal of care, and I could see nothing to convince me that it was not genuine. It looks like a genuine signature.

Fifth Interrogatory.—State what information you had from Mr. Stevens as to the circumstances under which this letter was signed by Gen. Lane, and the means by which his signature was obtained?

Answer.—I understood from Mr. Stevens that Gen. Lane declined to sign the letter, but that he could procure his signature to it through Mr. Reynolds, by paying him, Mr. Reynolds, one thousand dollars for it. Stevens objected to paying so large a sum of money, and wanted me to take the letter without his signature, but I advised him to procure the signature of Gen. Lane, if it could be had for that consideration, as I had understood the President would not make the investment without the assent of the whole delegation.

Mr. Stevens afterwards informed me that he had made the arrangement with Mr. Reynolds, and procured the signature.

Sixth Interrogatory.—Do you know what the Kansas bonds were worth in the stock market at the time you negotiated these bonds with the Secretary of the Interior?

Answer.—They had no market value.

EXAMINATION IN CHIEF RESUMED.

In your conversation with Gen. Lane, prior to the sale of these bonds, did you state to him distinctly that R. S. Stevens was the agent of the State to sell these bonds?

Answer.—I have no recollection of having made any direct statement to Gen. Lane on that subject.

Nineteenth Interrogatory.—While the negotiation of these bonds were pending, did Gen. Lane ever express to you any opposition to R. S. Stevens' agency in the case, or his drawing the money for the sale of these bonds?

Answer.—He was very much opposed to the payment of the money to Mr. Stevens, but was not opposed to his acting as agent for the sale of the bonds, and did not wish Mr. Stevens to carry the money to Kansas, or to pass into his hands.

Twentieth Interrogatory.—Did he take any steps to oppose the payment at any time after the sale?

Answer.—I think he filed a written protest with the Secretary of the Interior, against the payment of the money to Mr. Stevens. If not in writing, he protested verbally. Mr. Lane insisted that the money should be paid to Mr. Pomeroy, and Mr. Conway, or to such persons as they might designate, and wrote a letter to the Secretary of the Interior to that effect, and Messrs. Pomeroy and Conway designated Mr. Stevens as the person to receive the money, and it was paid accordingly.

Twenty-first Interrogatory.—Did Gen. Lane ever make any statement to you, touching his signature being attached to the letter referred to?

Answer.—I don't think he ever did. I received my information from a clerk in the Department of the Interior, perhaps from the Secretary, or both.

Twenty-second Interrogatory.—In relation to the one thousand dollars, stated to have been paid by Mr. Stevens, to Mr. Reynolds; did he, Stevens, explain who Reynolds was, and whether he exercised a degree of influence over Lane?

Answer.—He told me that Reynolds was a toady of Lane, that he, Lane, had procured his election to the Kansas Legislature, and that the payment of the money was equivalent to paying it to Lane.

Twenty-third Interrogatory.—What evidence other than the declaration of Mr. Stevens, had you, that the one thousand dollars was paid to Mr. Reynolds, with the exception of the presentation of the letter to you, bearing what purports to be the signature of Gen. Lane?

Answer.—None at all.

R. G. CORWIN.

Sworn to before me,

N. CALLAN, Notary Public.

"A"

EXHIBIT 4.

WASHINGTON, Dec. 16, 1861.

To the President :

The undersigned would respectfully represent, that the State of Kansas, has, by an act of her Legislature, authorized the sale of one hundred and fifty thousand dollars of bonds of said State, bearing interest at the rate of seven per cent. per annum, payable semi-annually, and that said bonds have been duly executed, and are now held by the State for sale.

They further state that Robert S. Stevens is the duly authorized agent of the State of Kansas, to sell said bonds, and that any contract made by him will be respected by the State.

The Constitution of the State of Kansas, prohibits any further issue of bonds by the Legislature, and also provides that the Legislature at the time they authorized the issue of bonds authorized by the Constitution, shall provide by law for the levy and collection of a tax to pay the interest, and for the ultimate redemption of the bonds. Such a law was passed by the Legislature which authorized the issue of the bonds now offered for sale by the State, and we do not hesitate to say that the interest upon the bonds will be promptly paid, and the principal at maturity.

We understand that the Department of the Interior has funds belonging to several tribes of Indians in Kansas, which by treaty provisions are to be invested in safe and profitable stocks. Believ-

ing that these bonds are both safe and profitable, we earnestly recommend to the President, that he shall direct the Secretary of the Interior to purchase said bonds at such price as to said Secretary shall be deemed advisable.

Very Respectfully,

S. C. POMEROY, U. S. S.
J. H. LANE,
M. F. CONWAY.

DEPARTMENT OF THE INTERIOR, }
Office of Indian Affairs, April 28, 1862. }

I, Charles E. Mix, Acting Commissioner of Indian Affairs, do hereby certify that the foregoing is a true copy of the original now on file in this office.

CHARLES E. MIX.
Acting Commissioner.

UNITED STATES OF AMERICA.


I, Caleb B. Smith, Secretary of the Interior, do hereby certify that Charles E. Mix, whose signature is annexed to the foregoing certificate, is now, and was at the time of signing the same, the Acting Commissioner of Indian Affairs, and that full faith and credit are due to his official acts as such.

DEPOSITION OF HON. S. C. POMEROY.

Hon. S. C. Pomeroy, of Atchison, in the State of Kansas, of lawful age, being by me duly sworn, cautioned and examined, deposes and saith as follows :

First Interrogatory.—Please state your name, residence and occupation.

Answer.—My name is S. C. Pomeroy, reside at Atchison, in the State of Kansas, and am forty-five years of age, and by occupation, a laborer.



Second Interrogatory.—Will you please to state if you were ever written to by Charles Robinson, the Governor of Kansas, John W. Robinson, Secretary of State, George S. Hillyer, Auditor of the State of Kansas, or R. S. Stevens, in relation to the sale of Kansas State bonds prior to the arrival of either of the said parties in the city of Washington?

Answer.—The only letter I ever received from either of the parties, was a letter from John W. Robinson, in answer to a letter I wrote him.

Third Interrogatory.—What was the substance of your letter to Mr. Robinson, and his reply?

Answer.—Understanding that he had some State bonds for sale, I wrote to him that if he would send them on, I thought they would be sold. I referred only to his private property, such as he received for his salary. He did send me about 25 or 30 hundred dollars of stock, and his clerk sent on somewhere about eight hundred, and upon the arrival of Hillyer and Robinson, I turned over to Mr. Robinson his bonds, and Mr. Weir's to Mr. Hillyer.

Fourth Interrogatory.—Did you at any time communicate with either of the parties above named, on the subject of the bonds belonging to the State?

Answer.—The only correspondence I had by letter is stated above. After the arrival of the parties, I had frequent conversations with them on that subject.

Fifth Interrogatory.—By whom were you first approached in relation to the negotiation of the bonds?

Answer.—The first time my attention was called to the subject, was by the Secretary of the Interior, who told me that he had purchased some Kansas War Bonds from R. S. Stevens. I mean the ten per cent. bonds issued on a short time. The Secretary of the Interior asked my opinion as to the character of the bonds, and the responsibility of the State, and of its indebtedness. I told him the bonds were a good, and the State liable, and the investment a good one and safe.

Sixth Interrogatory.—Did you know at that time that the law authorizing the issue of the seven per cent. bonds, limited their price at seventy cents on the dollar?

Answer.—I had not seen the law myself, and heard different statements—some said they could, and some said they could not sell them for less than seventy cents.

Seventh Interrogatory.—Had you any conversation with the Secretary of the Interior, or Commissioner of Indian Affairs, in relation to the purchase of the seven per cent. bonds, prior to the arrival of the said Secretary of State, or Auditor of Kansas, or R. S. Stevens in Washington City, and if so, what is the highest price the bonds could be sold for at that time?

Answer.—At the conclusion of the conversation about the ten per cent. above alluded to, I suggested to him to purchase the seven per cent. bonds belonging to the State. His reply was that he would consider the subject. I had no communication with him as to the price.

Eighth Interrogatory.—Did you notify the State authorities of Kansas, or any person in that State, of the views of the Secretary of the Interior on the subject?

Answer.—In the letter alluded to, from me to J. W. Robinson, I said there was a prospect of selling the bonds, and requested him to send his private bonds to me, and that is the only notice I sent to parties in Kansas.

Ninth Interrogatory.—On the arrival of J. W. Robinson, and George S. Hillyer in Washington City, did they, or either of them, ask your co-operation in effecting the sale of these bonds, and if so, what representations were made to you in reference to the same?

Answer.—Both of them asked my co-operation. They represented that they took their salaries in scrip, which they bonded, and unless they would sell the bonds, nobody could be paid, as the State had no money. It cost the State, for everything paid in scrip, twice as much as it would cost in money; and further, that the bonds could be sold no where else, as the bonds had no market value, not being quoted in the prices current.

Tenth Interrogatory.—Did the Secretary of State or Auditor, on their arrival in Washington, inform you that R. S. Stevens had been appointed the agent of the State, to sell the bonds, or was it at your instance, or did you advise that he should be appointed?

Answer.—They did not inform me on their arrival, that Stevens had, or had not been appointed. In a conversation with them, I advised that as Stevens was successful in selling the ten per cent. bonds, that he would be a suitable person to sell the seven per cent. bonds. I recommended that they should secure his services in that manner.

Eleventh Interrogatory.—Do you know anything of the arrangements made with R. S. Stevens, by which he was to have over sixty cents on the dollar, realized on the sale of these bonds?

Answer.—I do not. My first advice to them was to sell the bonds for seventy cents, or more if they could get it; and afterwards in the course of the negotiation, I advised them to sell for sixty, if they could get no more, as myself had bought Missouri bonds at forty-seven. Iowa State bonds were then offered here for fifty. I then knew nothing of the alleged limitation in the law, fixing the price of Kansas bonds at seventy cents, except some contradictory statements alluded to above.

Twelfth Interrogatory.—Had you any intimation at that time, or previous to the sale of these bonds on the 20th December, 1831, as to the probable price the Department would pay for them?

Answer.—I had no knowledge whatever.

Thirteenth Interrogatory.—Do you know anything of the price Mr. Stevens was to be paid for his services?

Answer.—I do not.

Fourteenth Interrogatory.—Will you state the substance of the conversation held in your private room with R. G. Corwin and R. S. Stevens, as referred to by R. G. Corwin in his deposition?

Answer.—I had frequent conversations with them, and cannot state the substance of any particular conversation; the subject generally discussed, and that which Mr. Corwin generally consulted me about, was, as to the power of the Legislature to issue more bonds, so as to depreciate those then offered for sale. It was my understanding, that the State was limited, and the State could not issue any more stock for that purpose.

Fifteenth Interrogatory.—Did John W. Robinson or George S. Hillyer, state to you at any time, the arrangement they had made with R. S. Stevens or R. G. Corwin to sell these bonds, or did you know of such arrangement prior to their sale?

Answer.—I have no recollection of their telling me anything about it. My belief was, that there was some arrangements existing between them, but do not know what it was. I did not think it my business to inquire.

Sixteenth Interrogatory.—Did you know that R. S. Stevens had in his possession State bonds, the private property of the Governor, Secretary of State, and Auditor, and that in their sale to the Interior Department, they were paid seventy cents on the dollar?

Answer.—I knew of no private bonds, excepting those belonging to J. W. Robinson and Mr. Weir, referred to above, and I knew nothing of any arrangement for the sale of them.

Seventeenth Interrogatory.—When did you learn that eighty-five cents was paid for these bonds?

Answer.—I first learned it by reading some published proceedings of the Kansas Legislature, about January or February last.

Eighteenth Interrogatory.—Had you any interest, directly or indirectly, in the sale of these bonds. other than to advance the interests of the State?

Answer.—I had none.

Twentieth Interrogatory.—Did you know anything in relation to the withdrawal of the coupons for the semi-annual interest due January 1, 1862?

Answer.—I do not.

Twenty-first Interrogatory.—Prior, and after the sale of these bonds, was any action taken by any member of your delegation to arrest the sale or payment of the money realized therefrom, if so, please state the facts?

Answer.—I understood that my colleague, Gen. Lane, objected to, or protested against the payment of the money to Mr. Stevens.

Twenty-second Interrogatory.—What arrangement did Gen. Lane make with you, in relation to having this money paid directly into the Treasury of Kansas?

Answer.—He made no arrangement with me, but left a letter with the Secretary of the Interior, requesting him to pay the money as directed by myself and Mr. Conway.

Twenty-third Interrogatory.—Will you please state what you know, through what agency the signature of Gen. Lane was obtained to a communication signed by yourself and Mr. Conway, bearing date December 16, 1861, and addressed to the President, in which R. S. Stevens is stated as the agent of the State for the sale of these bonds, and in which you urged their purchase?

Answer.—The paper was presented to me, in what I believed to be Stevens' hand writing, was presented by Mr. Stevens himself. I read it and signed it, and presented it to Senator Lane. He handed it back to me without signing it, and said he would consider about it, and see me the next day. This is all I know about it.

CROSS EXAMINATION BY DEFENDANT'S COUNSEL.

First Interrogatory.—Have you recently examined the letter spoken of in your last answer, at the Department of the Interior? If so, please state if it is the same paper you signed and presented to General Lane?

Answer.—I have seen it within a month, and believe it to be the same paper.

Second Interrogatory.—Are you acquainted with the hand writing of Gen. Lane? if so, please state whether the letter just referred to is signed in his own proper hand writing?

Answer.—I am acquainted with his hand writing; and I think the signature attached to the paper, which I saw in the Department of the Interior, is in Gen. Lane's hand writing.

Third Interrogatory.—Please state whether, in advising the Secretary of State and Auditor of Kansas to sell the bonds in question at sixty cents, if they could get no more, you considered that a good sale for the State?

Answer.—Considering the financial condition of the country, I did think it would have been a good sale for the State, as I believe they could not have been sold for that amount except to the Secretary of the Interior. I urged him to make the purchase, as I believed the bonds to be safe and good, and it was the custom of the Department to invest in Indian funds as far as practicable to the State where the tribes were located; the government has also, sometimes, given character to bonds of new States in this way. I thought it was a good arrangement both for the government and the State. I did not know what the government was paying for State bonds.

S. C. POMEROY.

Sworn to before me,
N. CALLAN, Notary Public.

DEPOSITION OF M. F. CONWAY.

Martin F. Conway, of lawful age, being by me duly examined, cautioned and solemnly sworn, deposeth and saith :

First Interrogatory.—Please state your name, age and occupation.

Answer.—My name is Martin F. Conway, age, thirty-two years; and a lawyer by profession.

Second Interrogatory.—Were you ever written to by Charles Robinson, J. W. Robinson, Secretary of State, George S. Hillyer or R. S. Stevens, in relation to Kansas State bonds; if so, where, and state if you please, the substance of those letters?

Answer.—I never received any such letters at any time.

Third Interrogatory.—Were you ever approached at any time by either of these parties in relation to the sale of these bonds, and if so, how often?

Answer.—I was approached by J. W. Robinson and by G. S. Hillyer, Auditor of the State. These gentlemen stated to me that the Legislature of the State of Kansas had authorized the sale of certain bonds, and that they had been appointed agents to sell them, and stated also, that there was a fund in the Indian Department belonging to certain Indians, which the President was authorized to dispose of as he thought proper for the benefit of the Indians; that the President might be induced to invest it in these bonds. They required my assistance, and represented how important it would be to the people of Kansas to effect the transaction. I agreed to do all I could to help the matter along, and accompanied these gentlemen several times to the President's house, and to the public Departments, but failed on each occasion to see the President or Secretary. I very shortly, however, ascertained that the object had been accomplished through other influence.

Fourth Interrogatory.—Did you know at any time prior to the sale of these bonds that R. S. Stevens had been appointed, by the State officers, their agent to dispose of them.

Answer.—I did not.

Fifth Interrogatory.—Did you know at any time prior to the sale, the probable price the bonds would be sold for to the Department, or was any reference, at any time, made as to the price?

Answer.—I did not.

Sixth Interrogatory.—Did you give any advice to the State officers as to the price they should take for these bonds.

Answer.—Did not.

Seventh Interrogatory.—Did you know as to the arrangements between the State officers and R. S. Stevens, by which the bonds

were to be sold to him at sixty cents on the dollar, and he to hold as his own all that could be realized over that sum.

Answer.—I did not.

Eighth Interrogatory.—Did you advise the State officers to employ R. S. Stevens as their agent?

Answer.—I did not.

Ninth Interrogatory.—Did you know that the law that authorized the issue of these bonds limited them at seventy cents on the dollar?

Answer.—I did not.

Tenth Interrogatory.—Will you state if you please, at whose instance you signed the letter addressed to the President, in which R. S. Stevens is stated as agent of the State, and recommending the purchase of the bonds by the government?

Answer.—Can't remember when I signed that letter, or where. The probabilities are that I signed it at the instance of one or both the Senators from Kansas, or I signed because I saw the name of one or both on the paper before I signed it.

Eleventh Interrogatory.—Do you know anything touching the signature of Hon. J. H. Lane, to that paper, and if so, state all the facts?

Answer.—I do not.

Twelfth Interrogatory.—Do you know whether he protested against the payment of the money realized from the sale of these State bonds to Robert Stevens, or the State officers?

Answer.—He told me he protested against it.

Thirteenth Interrogatory.—Will you state whether he had any conversation with you upon the subject? If so state the nature of it.

Answer.—None whatever.

Fourteenth Interrogatory.—What arrangement was made with you and Senator Pomeroy, and General Lane, to draw the money and pay it over to the State, after the meeting of the Legislature?

Answer.—I never knew that any such arrangement had been made.

Fifteenth Interrogatory.—What were the circumstances inducing you, a few days after, to sign the letters with Senator Pomeroy requesting the money to be paid to R. S. Stevens?

Answer.—Don't remember of signing such papers.

Sixteenth Interrogatory.—Do you know anything touching the withdrawal of the coupons for the semi-annual interest, due January 1st, 1862?

Answer.—I do not.

CROSS EXAMINATION BY DEFENDANT'S COUNSEL.

First Interrogatory.—Did you converse with General Lane on the subject of the negotiation while it was pending; if so, can you say whether General Lane was apprized of the agency of R. S. Stevens in selling the bonds?

Answer.—I had no conversation with General Lane while the negotiation was pending. I called his attention to the matter one evening at the Avenue House, but he said only a word or two, being apparently engrossed with some other subject.

DEPOSITION OF HON. CALEB B. SMITH.

Caleb B. Smith, being of lawful age, being duly sworn, cautioned and examined, deposeseth and saith as follows:

First Interrogatory.—Please state your name, age, residence and occupation.

Answer.—My name is Caleb B. Smith, age 58, reside in the city of Washington, and am Secretary of the Interior of the United States.

Second Interrogatory.—In relation to the State bonds purchased by your Department, will you please state the amount purchased, and the amount per dollar given for them, and the time when purchased.

Answer.—On the nineteenth of December, 1861, I, as Secretary of the Interior of the United States, with the sanction of the President, purchased of the State of Kansas, through R. S. Stevens, agent, one hundred and fifty thousand dollars of the seven per cent. bonds, of said State of Kansas, at the price of eighty-five per cent. their par value; ninety-five thousand six hundred, were delivered to me as Secretary, and are now in the possession of this Department; fifty-four thousand nine hundred and two dollars of the purchase

money was paid to Stevens by requisition upon the Treasury Department for the amount. It was agreed that no further sum should be paid on account of the bonds, until the one hundred and fifty thousand should be delivered. No more of the bonds have been delivered since that time, and no more of the purchase money has been paid.

Third Interrogatory.—Will you please state whether any communication was ever made to your Department, either by letter or in person by C. Robinson, Governor; J. W. Robinson, Secretary of State; or G. S. Hillyer, Auditor of State, in relation to the sale of these bonds to the Department; if so, will you state at what time, and the substance of such communications.

Answer.—I never had any personal communication with either of these gentlemen in relation to the bonds or their purchase.

Shortly before the bonds were purchased, Mr. Stevens filed in this Department, a paper purporting to be signed by C. Robinson, Governor; J. W. Robinson, Secretary of State, stating that R. S. Stevens was appointed agent for the State of Kansas, with full power and authority to negotiate and sell the issue of seven per cent. bonds, of said State, for one hundred and fifty thousand dollars. This paper bore date the 25th October, 1861. Upon the faith of this authority, I recognized Mr. Stevens as agent of the State. I have had no other communication of any kind with either of these gentlemen.

Fourth Interrogatory.—Will you please state whether there was any party occupying an official position from Kansas assisting in the negotiation of these bonds before your Department, if so state who the person was.

Answer.—Mr. Stevens made a written application to me, as the agent of the State of Kansas, to purchase the bonds on the third of December, 1861. I was then disinclined to make the purchase. Senator Pomeroy called to see me in relation to the matter, and represented that the sale of the bonds would be an advantage to the State, to enable them to pay some expenses which had been increased [incurred] in the organization of the State government. I made particular inquiry of him in regard to the resources of the State, and the probabilities of the prompt payment of the interest.

He assured me that the resources of the State were ample; that a law had already been passed to levy a tax to meet the interest which would be promptly paid. I then told him that I did not feel perfectly authorized to purchase the bonds without the sanction of

the President; that if the entire delegation from Kansas would unite in a request to the President to authorize the purchase of the bonds, I would recommend to the President his sanction to the purchase. Senator Pomeroy then told me that the entire delegation desired it, and would make such request to the President. Shortly afterwards a letter was handed to me, dated December 16th, 1861, addressed to the President and signed by Senators Pomeroy and Lane, and Mr. Conway of the House, requesting the President to authorize me to purchase the bonds. A certified copy of this letter has been furnished, and is among the papers and is hereto annexed marked "C."

Sometime after the contract was made, but before any money was paid, Senator Lane called to see me and objected to the payment of the money to Stevens. He spoke of Stevens' hostility to him, and did not wish the money paid to Stevens or the State officers, until after the adjournment of the Legislature. He stated that he had no confidence in any of them, and if they received the money it would be used to influence the action of the Legislature. I told him I did not wish to be mixed in with any of their local quarrels or troubles, that I had refused to entertain any proposition to purchase the bonds unless the entire Congressional delegation would unite in recommending it. I told him then, that I would not complete the transaction or pay the money to Stevens or any other person, unless the whole delegation would agree to its being so paid.

On the twenty-first day of December, 1861, a letter dated the 19th day of December, was brought to the Department signed by Senator Pomeroy and Mr. Conway, requesting me, if the negotiation then pending between Mr. Stevens and myself, for the purchase of the bonds should be concluded, to pay to Stevens the money for the bonds he should then deliver, and the balance when they should afterwards be delivered.

This letter was referred to the Chief Clerk of the Indian Office; the account was there stated and sent up to me for a requisition for the amount which I saw should be paid. I signed the requisition, and it was sent to the Treasury Department for payment. I had not then noticed or been informed that Senator Lane's name was not attached to the letter requesting the payment to be made to Stevens.

The next morning, before I left my house, Mr. Mix, the Chief Clerk of the Indian Office, came to my house and told me Lane had

not signed, and asked me whether I intended that the money should be paid to Stevens without Lane's agreeing to it.

I told Mr. Mix that I had informed them all, that I would not consent to close the transaction unless the whole delegation agreed to it. I requested him to go to the Treasury Department, and have the payment of the requisition suspended, and to tell Mr. Stevens that the money could not be paid to him unless he would get Lane's consent.

Shortly afterwards, a letter was handed to me signed by Gen Lane, requesting me to send the money for the bonds to the Treasurer of Kansas, under the direction of Senator Pomeroy and Representative Conway, these gentlemen having already requested me in writing to pay the money to Stevens. I considered Senator Lane's letter as equivalent to a request to pay it to him. I accordingly directed the payment of the money to Stevens.

Fifth Interrogatory.—Will you please state whether there was any reference made, at the time you held this conversation with Senator Pomeroy, as to the price the Department would pay for these bonds, or was any reference made to this subject by him or any one else occupying an official position from Kansas, prior to the purchase of these bonds?

Answer.—My impression is, that Pomeroy said nothing about the price at which the bonds should be purchased.

Sixth Interrogatory.—Please state the circumstances in relation to the withdrawal from these bonds, of the coupons for the semi-annual interest due in January, 1862?

Answer.—There was a coupon on each of the bonds for six months interest, due January, 1862. The money was paid for the bond very near the last of December, 1861; and as there a very few days intervening between the purchase and the time when the coupons were payable, I agreed that the coupons should be cut off and retained by the State.

CROSS EXAMINED BY THE DEFENDANT'S COUNSEL.

First Interrogatory.—Did Gen. Lane have any conversation with you on the subject of the negotiation while it was pending, if so, state whether he knew that you were negotiating with Mr. Stevens as the agent of the State?

Answer.—I can't recollect any distinct conversation with Lane in regard to Stevens until he protested against the payment of the money to him. My understanding was that he knew he was the

man I was negotiating with. I had several conversations with him before the contract was executed.

Second Interrogatory.—Are you acquainted with the hand writing of Gen. Lane, if so, is the signature to the letter of the 16th of December last, addressed to the President, of which you have spoken above, in his hand writing ?

Answer.—I have seen Gen. Lane's signature frequently, and from my knowledge of his hand writing, I suppose that signature to be genuine.

CALEB B. SMITH.

DEPOSITION OF WM. P. DOLE.

William P. Dole, of lawful age, being by me first duly cautioned, examined and sworn, deposeth and saith.

First Interrogatory.—What is your name, age, residence and occupation.

Answer.—William P. Dole, fifty years of age, and Commissioner of the Indians, reside in the City of Washington.

Second Interrogatory.—In relation to the sale of the seven per cent. Kansas State bonds. Will you please state the amount of bonds purchased, and the amount per dollar for them, and the time when purchased ?

Answer.—The answer I make as from information derived from the records of my office, not from any personal knowledge of my own, not being particularly consulted on that subject. The contract was for one hundred and fifty thousand dollars at eighty-five per cent., was made on the nineteenth day of December, 1861.

Third Interrogatory.—Will you state if you please, by whom the proposition was first made to your Department to purchase them, and if any thing was said at that time, as to the price the Department would be willing to pay for them ?

Answer.—The first I remember of a proposition to purchase these bonds, was a proposition referred to me by the Secretary of the Interior, of the 7th December, 1861, for my opinion as to the propriety of making the purchase. My answer to the Secretary on

the exhibit marked D, appended to the deposition hereto, and that subsequently in conversation with the Secretary, he remarked that he would not close the purchase, but refer the whole matter to the President. Subsequently the papers were returned to this office with the President's approval therein.

Fourth Interrogatory.—Will you please state whether any communication was made to you, either by letter or in person, by Chas. Robinson, Governor, John W. Robinson, Secretary of State, Geo. S. Hillyer, Auditor of State, in relation to the sale of these bonds to the Department; if so, state at what time, and the nature of the communications?

Answer.—I have no acquaintance with either of the gentlemen named; I never had any correspondence or connection with them on the subject. All the correspondence on the subject is that which is referred to me by the Secretary of the Interior.

Fifth Interrogatory.—Will you state if you please, whether R. S. Stevens applied to you in person, as the agent of the State of Kansas, to sell these bonds to your Department; and if so, the time he first approached you on that subject?

Answer.—He never did.

Sixth Interrogatory.—Will you state whether any communications were made to your Department by Geo. S. Hillyer, Charles Robinson, or other State officers of Kansas in relation to the sale of these bonds; and if so, the nature of such communication from them now filed in your office?

Answer.—Two communications were received from the State officers of Kansas, one bearing date October 15th, 1861, from Topeka, Kansas, signed by C. Robinson, Governor, J. W. Robinson, Secretary of State, H. R. Dutton, Treasurer of State, stating that the provisions of an act entitled "An act to authorize the State of Kansas to borrow money to repel invasion, suppress insurrection, and to defend the State in time of war," approved May 7th, 1861, were not intended to prevent the Treasurer from issuing more than \$20,000 of bonds; that the intent was to authorize him to realize from the sale thereof \$20,000, and that the Treasurer was fully authorized to sell said bonds at such price as by him should be deemed necessary; such was their understanding of the law referred to.

The contract between these gentlemen and R. S. Stevens, is dated October 6th, 1861.

Seventh Interrogatory.—Was there any party occupying an official position in Kansas, assisting in the negotiation?

Answer.—I think not. The Senators may have mentioned the subject to me; certainly no one else. I have no knowledge, except by the papers on file, as to who assisted before the President and Secretary of the Interior.

Eighth Interrogatory.—Will you state whether your understanding was that R. S. Stevens was acting as agent for the sale of these bonds, or as the owner of them?

Answer.—I do not.

Ninth Interrogatory.—Did you, at any time prior to the purchase of these bonds, state to any person or persons the precise amount the Department would pay for them?

Answer.—I did not.

Tenth Interrogatory.—Before and after the purchase of these bonds, were representations made to you, by any person, to the effect that the transaction was not a *bona fide* one, and that the State had been or would be defrauded?

Answer.—I had no such intimation until I was subpoenaed to appear before the Investigating Committee, while on my visit there.

Eleventh Interrogatory.—Do you know anything in relation to the withdrawal of the coupons for the semi-annual interest due thereon?

Answer.—I do not. I know the bonds were not brought into my office until about the first of January, 1862. My understanding was that the bonds were purchased without the coupons.

Twelfth Interrogatory.—Was any action taken by Gen. Lane to suspend the payment of the money paid for these bonds?

Answer.—I have no knowledge of that. I understand, from the Secretary of the Interior, that the delegation in Congress from Kansas were to designate to whom the money was to be paid; such was done.

CROSS EXAMINED BY DEFENDANT'S COUNSEL.

First Interrogatory.—Did not Gen. James H. Lane protest against the payment of the money to R. S. Stevens?

Answer.—Not to me, that I remember.

Second Interrogatory.—Will you furnish a copy of the letter of the Governor, Secretary and Treasurer of Kansas, as to the ten per cent. bonds?

Answer.—A copy thereof is hereto annexed, marked "E. E."

WM. P. DOLE.

Sworn before N. CALLAN, Notary Public.

"E. E."

EXECUTIVE DEPARTMENT, }
Topeka, Kansas, October 15, 1862. }

The undersigned, Executive Officers of the State of Kansas, hereby state that the provisions of an act entitled "An act to authorize the State of Kansas to borrow money to repel invasion, suppress insurrection, and to defend the State in time of war," approved May 7th, 1862, were not intended to prevent the Treasurer from issuing more than twenty thousand dollars in bonds, but that the intent was to authorize him to issue bonds sufficient to realize, from the sale thereof, twenty thousand dollars; and that the Treasurer was fully authorized to sell said bonds at such price as by him should be deemed necessary. Such is our understanding of the law referred to.

C. ROBINSON, Governor.

JOHN W. ROBINSON, Sec'y State.

H. R. DUTTON, Treasurer of State.

DEPARTMENT OF THE INTERIOR, }
Office of Indian Affairs, May 8, 1862. }

I, William P. Dole, Commissioner of Indian Affairs, do hereby certify that the foregoing instrument of writing is a true copy of the original now on file in this office.

WM. P. DOLE,
Commissioner.

DEPARTMENT OF THE INTERIOR, }
May 8, 1862. }

I, Caleb B. Smith, Secretary of the Interior, do hereby certify that Wm. P. Dole, whose signature is attached to the foregoing certificate, is now, and was at the time of signing the same, Commissioner of Indian Affairs, and that full faith and credit are due to his official acts as such.

In testimony whereof, I have hereunto set my hand and caused the seal of said Department to be affixed this day of May, A. D. 1862.



CALEB B. SMITH,
Secretary.

EXECUTIVE DEPARTMENT, }
OFFICE OF THE STATE AUDITOR, }
Topeka, Kansas, Oct. 25, 1861. }

The undersigned, Executive Officers of this State, authorized by law to dispose of and sell the seven per cent. bonds, the issuance of which was authorized by an act of the Legislature of this State, approved May 1st, 1861, entitled "An act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State," and an act supplementary thereto, approved June 3d, 1861, do hereby constitute and appoint Robert S. Stevens, Esq., an agent to sell and dispose of said bonds, giving the said Stevens full power and authority to negotiate, dispose of, and sell the entire issue of one hundred and fifty thousand dollars of said bonds, for the benefit of the State of Kansas, hereby ratifying and confirming all and whatever said Stevens may do in the premises.

Witness our hands this 25th day of October, A. D. 1861.

C. ROBINSON, Governor.
J. W. ROBINSON, Sec'y of State.
G. S. HILLYER, Auditor of State.

WASHINGTON, December 3, 1861.

SIR:—Having been duly appointed an agent, for the purpose of negotiating and selling the bonds of the State of Kansas, the issuance of which were authorized by an act of the Legislature of that State, approved May 1st, 1861, entitled "An act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State," and an act supplementary thereto, approved June 3d, 1861, I hereby propose to sell to you, as Trustee of certain Indian tribes, the entire issue of bonds authorized by said acts, being one hundred and fifty thousand dollars, at eighty-five cents on the dollar. I inclose my authority to sell said bonds, as given me by State officers.

Very Respectfully Yours,

R. S. STEVENS.

Hon. C. B. SMITH,
Secretary of the Interior,
Washington, D. C.

"D."

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, December 7, 1861. }

SIR:—I herewith return certain papers, referred to this office by you, in relation to the purchase of \$150,000, bonds issued by the State of Kansas, such purchase to be made for the benefit of certain tribes of Indians. My view, in relation to the manner in which all funds, coming into the possession of the Government, to be invested in stocks in trust for, and for the benefit of, Indians, have been fully expressed in my recent Annual Report.

If, however, it is deemed advisable by you to cause such investments to be made, in any other stocks than those of the United States, I feel free to state that, in my judgment, the prospects of Kansas, as a young, growing, and vigorous State, abounding in all the elements of future prosperity, are such as to warrant the belief that her stocks, bearing seven per cent. interest, and purchased at the rate proposed by Mr. Stevens, as agent for Kansas, viz: at eighty-five

cents on the dollar, must, in the end, be a profitable and safe investment.

Very respectfully, your obedient servant,

WM. P. DOLE, Commissioner.

Hon. C. B. SMITH,

Secretary of Interior.

(Indorsed.) The Secretary of the Interior is authorized to purchase the bonds of the State of Kansas, on the terms named within.

A. LINCOLN.

DEPARTMENT OF THE INTERIOR, }
December 14, 1861.

SIR:—The United States hold in trust for the Kaskaskia Indians the sum of \$40,000, which the seventh article of a treaty made with them May 3d, 1854, (Statutes at Large, volume 10th, page 1084,) provides may be invested by the President, in safe and profitable stocks. There is also a fund of \$15,000 held in trust for the Iowas, which, under the fifth article of the treaty made with them May 17th, 1854, may be invested by the President in the same manner. The State of Kansas has issued one hundred and fifty thousand dollars of State bonds, bearing seven per cent. interest, and payable in twenty years. The State authorities offer to sell these bonds at eighty-five per cent.

The Constitution of the State prohibits the issuing of bonds to a larger amount than two hundred thousand dollars, and also provides that a tax shall be levied to pay the interest.

It seems to me that these bonds would form a safe investment for the Indians, and the opinion of the President, as to the propriety of making the investment, is requested.

I have the honor to be, very respectfully, your obedient servant,

C. B. SMITH, Secretary.

To the President.

WASHINGTON, Dec. 16, 1861.

To the President :

The undersigned would respectfully represent, that the State of Kansas, has, by an act of her Legislature, authorized the sale of one

hundred and fifty thousand dollars of bonds of said State, bearing interest at the rate of seven per cent. per annum, payable semi-annually, and that said bonds have been duly executed, and are now held by the State for sale.

They further state that Robert S. Stevens is the duly authorized agent of the State of Kansas, to sell said bonds, and that any contract made by him will be respected by the State.

The Constitution of the State of Kansas, prohibits any further issue of bonds by the Legislature, and also provides that the Legislature, at the time they authorized the issue of bonds authorized by the Constitution, shall provide by law for the levy and collection of a tax to pay the interest, and for the ultimate redemption of the bonds. Such a law was passed by the Legislature which authorized the issue of the bonds now offered for sale by the State, and we do not hesitate to say that the interest upon the bonds will be promptly paid, and the principal at maturity.

We understand that the Department of the Interior has funds belonging to several tribes of Indians in Kansas, which by treaty provisions are to be invested in safe and profitable stocks. Believing that these bonds are both safe and profitable, we earnestly recommend to the President, that he shall direct the Secretary of the Interior to purchase said bonds at such price as to said Secretary shall be deemed advisable.

Very Respectfully,

S. C. POMEROY, U. S. S.
J. H. LANE,
M. F. CONWAY.

"B."

WASHINGTON, December 19, 1861.

Hon. C. B. SMITH, Secretary of the Interior—SIR: In case that the negotiation, now pending between yourself and R. S. Stevens, for the purchase of the bonds of the State of Kansas, is concluded, we respectfully request that you pay him now for the bonds he is able now to deliver, and the balance as may hereafter be delivered and ordered by the undersigned.

Respectfully,
S. C. POMEROY.
M. F. CONWAY.

WASHINGTON, December 19, 1861.

Sect. C. B. SMITH—DEAR SIR: We, the undersigned, most respectfully suggest that the installments, to be paid to our State, upon bonds sold by its agent, be sent to the Treasurer of Kansas, under the direction of Senator Pomeroy and Representative Conway, now in this city.

J. H. LANE.

N. CALLAN, Notary Public.

[COPY OF AGREEMENT.]

It is agreed between the United States, by C. B. Smith, Secretary of the Interior, and the State of Kansas, by R. S. Stevens, agent of the State, duly appointed to sell the bonds of said State, that the United States purchase the bonds of said State, dated July 1st, 1861, and payable in fifteen years in the State of New York, with interest at the rate of seven per cent. per annum, payable semi-annually in New York, to the amount of one hundred and fifty thousand dollars, and which is the whole amount of the issue of said bonds, and which bonds are to be paid for at the rate of eighty-five per cent. of their par value.

Ninety-five thousand six hundred dollars of said bonds are delivered to the Secretary of the Interior at this time, and he has paid to the State of Kansas, on account of the same, the sum of \$55,000, and no further sum is to be paid until the residue of said bonds shall be delivered, when the balance of the purchase money shall be paid.

CALEB B. SMITH.

R. S. STEVENS.

Department of the Interior, December 19th, 1861.

DEPARTMENT OF THE INTERIOR, }
December 20, 1861. }

SIR:—Referring to your letter of the 7th inst., returning papers referred to you in relation to the purchase of Kansas State bonds

for certain tribes, I have to state that, under the authority of the President, I have purchased of the State of Kansas, through R. S. Stevens, agent, 246 bonds of said State, at eighty-five cents on the dollar, amounting to \$54,910,000, as per bill herewith; which purchase is made for the benefit of the confederate tribes of Weas, Kaskaskias, Peorias and Piankeshaws, and the Iowas, in the amount respectively named in the bill for these tribes.

I have also received the bonds described, which are found, upon examination, to be right.

You will, therefore, adjust the account for their purchase. The bonds are herewith inclosed to you, to be placed in the iron safe now in your charge, for safe keeping. The papers, connected with the purchase of said bonds, are also inclosed.

Very respectfully, your obedient servant,

CALEB B. SMITH, Secretary.

Hon. WM. P. DOLE, Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR, }
April 25, 1862. }

I hereby certify that the foregoing, on pages 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10,* are true copies of the originals on file in this Department.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of the Department to be affixed this 25th day of April, A. D. 1862.



CALEB B. SMITH,
Secretary of the Interior.

R. G. Corwin being recalled by the plaintiff's counsel, deposeth and saith:

First Interrogatory.—Will you state the substance of the conversation between Senator Pomeroy, R. S. Stevens and yourself,

*This certificate has reference to the pages of the original deposition.

while in his private room when you called on Gen. Pomeroy with R. S. Stevens, J. W. Robinson and G. S. Hillyer, and left the latter gentlemen in the parlor, as referred to in your answer to seventh interrogatory?

Answer.—We went there to consult upon the propriety of selling the entire issue of the bonds, \$150,000. All of the bonds had been given out, except eighty-seven thousand dollars, or thereabouts, in paying the debts of the State. We wanted Stevens to get in or buy in all the bonds of the State that had been given out, and sell the entire issue to the Government. The result of the interview was that he, Stevens, concluded to do so.

Second Interrogatory.—As the State officers were present at the time, what reason was there for not consulting them in relation to this subject?

Answer.—I do not know. We went into the parlor where Mr. Pomeroy and his wife and several gentlemen were sitting, and all engaged in conversation. Pomeroy and Stevens withdrew into another room, and invited me to accompany them. When we came out and reported the result to the officers, they were satisfied.

Third Interrogatory.—Will you please state the compensation promised by R. S. Stevens, the agent of the State, for your services in negotiation and sale of these bonds?

Answer.—My compensation was a very small one.

CROSS EXAMINED BY DEFENDANT'S COUNSEL.

First Interrogatory.—Was it not a subject of conversation with Gen. Pomeroy, whether the Legislature had power, under the Constitution, to issue more than two hundred thousand dollars of bonds, and whether this restriction did not make the present bonds more safe and valuable?

Answer.—I understood that to be the opinion of all the parties concerned. I answer that that was the subject of conversation that night, either in the parlor or in the private room.

R. G. CORWIN.

Sworn to before me,

N. CALLAN, Notary Public.

The Hon. S. A. Stinson offered the following motion on behalf of the managers:

In the matter of the impeachment of John W. Robinson, we move for an attachment against D. H. Wier, as a witness on behalf of the prosecution.

Twenty-one Senators voting aye and one Senator voting no, the motion was sustained, and the attachment issued.

On motion, the Senate adjourned.

FIFTH DAY.

COURT CHAMBER,
Friday, June 6, 1862, 9 o'clock, A. M. }

Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the Chair.

Roll called.

Quorum present.

Absentees—Messrs. Barnett, Denman, Hoffman, Holliday, Lambdin, Lappin, Lynde, Morrow and Sleeper.

Journal of yesterday read and approved.

Present :—Hon. S. A. Stinson, and the Board of Managers on the part of the House of Representatives.

Hons. F. P. Stanton and Wilson Shannon, and N. P. Case, Esq., respondent's attorneys.

John W. Robinson appeared in person.

Mr. Hubbard offered the following order :

Resolved, That the Senate will not proceed with the consideration of any matters connected with the trial of impeachments, except in the presence of seventeen Senators.

It was so ordered.

President announced the appointment of Byron Sherry as Journal Clerk, and R. J. Hinton and Robert Parham as Reporters, appeared and took the following oaths :

State of Kansas, }
Shawnee County, } ss.

I, R. J. Hinton, do solemnly swear to support the Constitution of the United States, the Constitution of the State of Kansas, and to faithfully discharge the duties of Reporter of the Senate of the

State of Kansas, according to the best of my ability, so help me God.

R. J. HINTON.

Topeka, June 6, 1862.

Sworn to and subscribed before me this 6th day of June, A. D. 1862.

T. A. OSBORN,
President of Senate.

UNITED STATES OF AMERICA, }
State of Kansas, } ss.
Shawnee County, }

I, R. Parham, do solemnly swear to support the Constitution of the United States, and the Constitution of the State of Kansas, and to faithfully discharge the duties of Assistant Reporter of the Senate or the State of Kansas, to the best of my ability, so help me God.

R. PARHAM.

June 6, 1862.

Sworn and subscribed to before me this 6th day of June, A. D. 1862.

T. A. OSBORN,
President of Senate.

UNITED STATES OF AMERICA, }
State of Kansas, } ss.
Shawnee County, }

I, Byron Sherry, do solemnly swear to support the Constitution of the United States, the Constitution of the State of Kansas, and to faithfully discharge the duties of Journal Clerk of the Senate of the State of Kansas, to the best of my ability, so help me God.

BYRON SHERRY.

June 6, 1862.

Sworn to and subscribed before me this 6th day of June, A. D. 1862.

T. A. OSBORN,
President of Senate.

On motion of Mr. Hubbard, the following order was adopted :

Resolved, That one hundred copies of the depositions, read in the case of John W. Robinson, together with the letters and exhibits accompanying, be printed for the use of the Senate and for counsel.

On motion of Mr. Hubbard, the Senate took a recess of fifteen minutes.

The time having expired, the Senate was called to order.

[GEORGE S. HILLYER'S TESTIMONY.]

George S. Hillyer being called on the part of the State, was duly sworn :

Mr. Stinson, Attorney General.—Mr. Hillyer, are you the Auditor of the State of Kansas?

Mr. Hillyer.—I am.

Q. What are and have been your duties, in connection with the State?

A. Issuing bonds, auditing accounts, &c.; and so far as issuing them, to countersign and register the same.

Q. Does that apply both to the war and the seven per cent. bonds?

A. Yes, sir, both.

Q. Have you a record of the number and the amount issued by the State?

A. I have.

Q. Will you state the number of war bonds countersigned by you?

A. Forty thousand dollars.

Q. What amount of the seven per cent. bonds was countersigned by you?

A. One hundred and fifty thousand dollars—all there was.

Q. Under what act was the seven per cent. bonds issued, and what amount was ordered to be issued?

A. Under that act of May 3d, 1861, and an act supplementary thereto, approved June 3d, 1861, to the amount of one hundred and fifty thousand dollars.

Q. At what date were these bonds issued?

A. The bonds all bear the same date, the 1st day of July, A. D. 1861.

Q. What is the date of the war bonds?

A. I do not recollect, but think they bear the same date; I can tell by looking at the register.

Q. What disposition was made (if you know) of the seven per cent. bonds?

A. Sixty-two thousand eight hundred dollars of those bonds were issued for the redemption of scrip,—bonds being issued at seventy cents on the dollar and scrip received at par.

Q. What disposition has been made of the balance of the seven per cent. bonds?

A. Eighty-seven thousand two hundred dollars have been negotiated.

Q. When, where and how were they negotiated?

A. They were negotiated and sold to R. S. Stevens at sixty cents on the dollar.

Q. By whom were they sold?

A. By the Secretary of State—John W. Robinson, and myself.

Q. Where were they sold?

A. At Washington.

Q. When so sold?

A. Between the 1st and 15th of December, A. D. 1861.

Q. At what price?

A. Sixty cents on the dollar.

Q. What disposition was made of them (if you know) by Mr. Stevens?

A. They were disposed of by him to the Interior Department. as I understand it.

Q. What, if anything, have you learned from Mr. Stevens in the matter—I mean in regard to the price?

Mr. Stanton.—Mr. President: The defense object to this question. It is not important at this stage, and we do not expect to make issue upon this point. Every one here knows these bonds were sold for eighty-five cents on the dollar; the evidence of Mr. Secretary Smith and Commissioner Dole fully state this. Mr. Stevens may be called and testify in relation to the matter; our objection is based upon the general principle of refusing here-say-evidence.

Attorney General.—May it please the Court, this prosecution charges the defendant, John W. Robinson; the witness, Mr. Hillyer, and Mr. Stevens, with having entered into a conspiracy to defraud the State. The charge is contained in the Article of Impeachment. [Mr. Stinson read article number 5, of the Article of Impeachment.] This question is unimportant to us at this point, but we charge

these parties with conspiracy and therefore claim a right to all evidence which may establish this charge. If we should not succeed in showing the conspiracy, this testimony may be incompetent; but if we do so show it, then the acts of one of the conspirators in furtherance of the common evil design is binding upon all. We have a right to begin at any part of our case, and if we do not fail to connect it, as I have indicated with the defendants, it may be properly stricken out.

Mr. Stanton.—We do not deny the prosecution of the evidence if they have proved the conspiracy: the witness, however has the right to refuse answering such questions. Mr. Hillyer is an intelligent gentleman, and is aware that he need not criminate himself by answering questions of this nature.

Attorney General.—He can refuse to answer.

The question was repeated.

A. He never told me the price obtained. I did not know until his testimony before the Investigating Committee was published. I do not know that he has spoken of it since.

Q. What conversation, if any, did you ever hold with the defendant in regard to the price of these bonds?

A. We had several interviews. We understood that there was a portion of these bonds—fifty thousand dollars—we had a right to sell without limitation.

Q. That was a part of your conversation, was it?

A. Yes sir.

Q. What further conversation had you?

A. We also understood that the expense of negotiating these bonds was to be retained out of the proceeds.

Q. What conversation did you have with John W. Robinson in relation to the price which the Department was to pay for these bonds?

A. We never had any conversation as to what was paid, as we never knew; we had determined to sell at seventy cents if it could be obtained.

Q. What payment was made by Mr. Stevens, at the time of the sale of these bonds?

A. Nothing.

Q. What did he pay you ?

A. He did not pay me any thing.

Q. Or the Secretary ?

A. Nothing, to my knowledge.

Q. What security did he give you for the payment of the amount for these bonds ?

A. We took no security, but his receipt that the proceeds should be paid into the Treasury.

Q. Have you the receipt ?

A. Not here, I can send and get it.

Q. Where is it ?

A. In my office.

Q. When was he to pay for these bonds ?

A. When the bonds were sold and paid for by the Department, or to whomever they were sold.

Q. Was there any limitation in the receipt as to the time he was to pay the amount ?

A. No sir, I believe not.

Q. Did you know at the time you delivered these bonds to Mr. Stevens what disposition he was to make of them ?

A. I did know that he had a bargain or contract made, or that the preliminaries were already made.

Q. Did J. W. Robinson know what disposition Mr. Stevens was to make of these bonds ?

A. Yes sir, we both understood that if negotiated at all, they were to be sold to the Interior Department.

Q. Did you have any conversation with the Secretary of Interior in regard to the negotiation of these bonds ?

A. No, sir.

Q. Under the terms of the sale with Mr. Stevens, was he bound in any way ?

A. No sir.

Mr. Stanton.—The Attorney General will allow me to suggest that there is a written contract between these gentlemen, which has already been in evidence before the Investigating Committee.

Mr. Hillyer.—There is such a contract between Secretary Robinson and myself, and Mr. Stevens.

Mr. Stinson.—I do not understand there is such a contract
To witness.—Q. Have you the contract made between the
parties?

A. I kept a copy of it.

Q. Where is it?

[Witness presented copy of the contract made by John W. Robinson and himself with Mr. Stevens, printed in the report of the House Investigating Committee.]

Mr. Stanton.—We do not admit that document as evidence only so far as proved.

Attorney General to Witness.—Q. You admit that this is a true copy of the contract made by you and J. W. Robinson, with Mr. Stevens, do you?

A. Yes.

The contract was then read:

[COPY.]

This certifies that we have employed and constituted R. S. Stevens an agent on the part of the State of Kansas to negotiate and sell all the seven per cent. bonds of said State, issued in accordance with the provisions of an act of the Legislature of the State of Kansas, approved May 1, 1861, and an act supplementary thereto, approved June 3, 1861, authorizing the issue and sale of one hundred and fifty thousand dollars of the bonds of said State; and we hereby agree to give him for his services as such agent, all and whatever amount of money he may receive for said bonds over and above sixty cents (60 cents) on the dollar; that is to say, for all the bonds belonging to the State, which the said Stevens may sell, he is to pay into the State Treasury the sum of sixty cents (60 cents) on each and every dollar.

Witness our hands this third day of December, A. D. 1861.

JOHN W. ROBINSON, Secretary of State.
GEO. S. HILLYER, Auditor of State.

This paper is, according to my belief, a true copy of the original.
R. S. STEVENS.

Attorney General.—Q. Is this which I have read, a correct copy of the contract made with Mr. Stevens?

Mr. Hillyer.—A. To the best of my recollection, it is a true copy.

Q. Mr. Hillyer, is this the contract under which the bonds were sold?

A. It is.

Q. Is this the only contract?

A. It is the only contract.

Q. Was this paper executed by John W. Robinson and yourself?

A. Yes, sir.

Q. Where was this paper executed?

A. At Washington.

Q. On the day of its date?

A. Yes, sir.

Q. For what purpose did you and John W. Robinson go to Washington?

A. I went to sell the bonds; don't know the entire business of the Secretary.

Q. Do you know by any conversation you had with John W. Robinson if he went on that business?

A. I should think not; he has some relatives in Washington, whom he expected to visit, he left a day or two before I did, and did not decide on going to Washington until after he got to Chicago.

Q. Did you have any conversation with J. W. Robinson in relation to the bonds, prior to your going to Washington?

A. I had several conversations with him.

Q. When you left here did you expect to negotiate these bonds while absent?

A. I expected to make an effort.

Q. Had Mr. Robinson any private bonds of his own?

A. I believe he had.

Q. Do you know what amount?

A. I do not.

Q. Do you know about what amount?

A. I believe about three thousand dollars.

Q. What disposition did he make of them?

A. They were sold at the same time and place as the State bonds.

Q. Do you know what price he received for those bonds?

A. I do not.

Q. Did he never tell you what he received for those bonds?

A. I do not know that he did. The report is that he received seventy cents.

Q. Have you heard it so stated in his presence?

A. I think I have.

Q. Have you had any conversation with John W. Robinson in the matter?

A. I suppose I have.

Q. Do you know through whom they were negotiated?

A. Through Mr. Stevens.

Q. What private bonds had you with you?

A. I had fourteen hundred dollars of my own.

Q. Had you any other bonds not the property of the State?

A. I had. But had no interest in, but only charge of them.

Q. What did you do with your private bonds?

A. They were sold with the State bonds.

Q. What did you get for them?

A. I got seventy cents from Mr. Stevens. No contract was made with him, as to the price I should receive. I told him I wanted my bonds sold with those of the State. On his return, he paid me at the rate of seventy cents on the dollar. This was his own proposition.

Q. Was the whole amount due paid to you at the same time?

A. Mr. Stevens paid me a portion at Washington, and the remainder on the final settlement here.

Q. At what proportion did he pay you first?

A. I had with me \$1,400 of my own, two hundred dollars for Mr. Dutton, and some from Mr. Weir. Stevens paid me, I think, a thousand dollars. I think Weir's amounted to one thousand dollars.

Q. Under what arrangement did you have the bonds of Mr. Weir?

A. I had no arrangement with him. He sent them in a letter to Senator Pomeroy, and asked that they be sold with the rest.

Q. For how much did you account to with Mr. Weir?

A. The whole.

Q. When?

A. When Mr. Stevens paid me.

Q. What amount did you pay him the first time you settled with him?

A. I paid him sixty cents on the dollar.

Q. How long after did you pay him the balance?

A. When he left here.

Q. Was it before or after the sitting of the Investigating Committee?

A. After.

Q. Did you ever see the original paper that this professes to be a copy?

A. Yes, sir.

Attorney General.—This paper is attached to the depositions, but not marked as an "exhibit."*

Q. Where was the original paper executed?

A. At Washington.

Q. By whom was it executed?

A. I signed it, and the Secretary.

Q. Who signed the name of Charles Robinson, Governor?

A. The Secretary signed the Governor's name.

Q. At what time was this paper executed?

A. It was executed about the first of December, A. D. 1861. I could not tell the exact day.

Attorney General.—May it please the Court: The paper to which the witness refers, bears date 25th day of October, A. D. 1861.

The regular hour of adjournment having arrived, the Court rose till 2 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment.

President pro tem. in the chair.

*See depositions, pp. 163 to 179, inclusive.

Proclamation was made by the Sergeant-at-Arms.

The roll being called,

Absentees:—Messrs. Barnett, Connell, Hoffman, Holliday, Hubbard, Lynde and Morrow.

On motion of Mr. Ingalls, the following order was adopted :

Resolved, That in closing the case, "The State of Kansas against John W. Robinson," the arguments shall be limited to four, not exceeding one session of the Court each, two for the prosecution and two for the defense, the prosecution to open and close.

Examination in chief of the witness, George S. Hillyer, was resumed by the Attorney General.

Q. Mr. Hillyer, was any arrangement made with R. S. Stevens, in relation to the sale of the bonds, prior to your going to Washington ?

A. No, sir.

Q. Did you, in connection with Dr. Robinson, or did Dr. Robinson, to your knowledge, offer these bonds for sale to any other party ?

A. I believe not.

Q. When you went to Washington, was there any arrangement that you should meet Dr. Robinson there ?

A. No positive arrangement.

Q. Was there any understanding ?

A. There was an understanding that if he concluded to go, he would meet me at the railroad depot in Chicago. As he did not do so, I concluded he had gone on.

Q. While in Washington, did you and Dr. J. W. Robinson, or Dr. Robinson alone, make any attempt to dispose of these bonds, except to Mr. Stevens ?

A. We did not.

Q. At the time you made the negotiation with Mr. Stevens, did Mr. Stevens expect to sell the bonds ?

A. Yes, sir.

Q. Where ?

A. I was told to Interior Department.

Q. Who by ?

A. I don't know, positively.

Q. Were you so told by Mr. Stevens?

A. I am not certain, but think Mr. Stevens told me the Department of the Interior.

Q. Was that communicated to Dr. Robinson, as well as yourself?

A. I think it was.

Q. For what amount of bonds (if you know) did Mr. Stevens account for to the State?

A. I think it was about fifty-six thousand two hundred dollars.

Q. Was there any other contract, agreement or bargain, between yourselves and Mr. Stevens, except these embodied in the paper shown you?

A. There was not—no contract except the one exhibited.

Q. From whose hands did Mr. Stevens receive these bonds?

A. From my hands.

Q. When?

A. Some time in December, A. D. 1861. I do not recollect the date.

Q. Where?

A. At Washington.

Q. Had Mr. Stevens, prior to the time of your meeting him in Washington, any of these bonds in his possession?

A. He had, I believe; the State Treasurer put some bonds in his hands. Mr. Stevens had not received any bonds except those received from Mr. Dutton.

Q. What amount of bonds did you deliver to Mr. Stevens in Washington?

A. There were a portion of the bonds there, received from Dutton, which had been left by Stevens, I forget the amount, I think it was \$29,000. Prior to my going to Washington there was \$21,000 there; I don't know who took those bonds on. The \$21,000 was receipted for by Mr. Stevens, as from Mr. Dutton, making \$50,000 in all. I found them securely lodged in a safe, and there left them. I took on the \$37,200, making in all \$87,200,00, the whole of which came back into my hands, and were by me handed to Mr. Stevens, from whom I took a receipt.

Q. Do you know, of your own knowledge that Mr. Dutton handed those bonds to Mr. Stevens?

A. I do not. I have seen Mr. Stevens' receipt for the bonds.

Q. Did you not, at any time, request Mr. Dutton to hand certain bonds to Mr. Stevens when he called for them, and take his receipt for the same?

A. I don't remember. Very likely the bonds were delivered to Mr. Stevens by order of myself, or by the other officers.

Q. At the time Mr. Stevens took these bonds, were they not incomplete, lacking the signature of the Governor?

A. I think all of that amount mentioned were perfected. I think all was perfected excepting the amount \$37,200, (thirty-seven thousand, two hundred dollars) I took on myself.

Q. By whose order did Mr. Dutton deliver those bonds to Mr. Stevens?

A. By the consent of myself, I presume. I do not know that any other was in it, probably after consultation with the Secretary it was agreed upon.

Q. For what reasons were those bonds delivered to Mr. Dutton?

A. I have no distinct recollection, but, to the best of my knowledge, for to get a receipt for them from Mr. Stevens.

Q. By what arrangement did Mr. Stevens take the \$29,000 bonds from Mr. Dutton?

A. The \$29,000 bonds were received from Mr. Dutton in New York, as I understand from his testimony before the Investigating Committee.

Q. Was it done in accordance with any arrangement between Dr. Robinson and yourself and Mr. Stevens?

A. His (Stevens) name was not mentioned in connection with the transaction at that time.

Q. When Mr. Dutton took those bonds, were there any instructions from Dr. Robinson, or him and yourself, that he should make any certain disposition of them?

A. I don't recollect the date Mr. Dutton went East with the War Bonds, and took at the same time \$29,000 of the seven per cent. bonds, with instructions, whether written or not I don't remember. I think they were given by the Governor, Secretary and myself, to sell them at not less than seventy cents on the dollar; he wrote that he could not sell them at that price. I did not know that these bonds were in Washington. When I reached there, I learned that Mr. Stevens left them there in safe keeping.

Q. From whom?

A. H. L. Stevens.

Q. When did you and Dr. Robinson first commence making arrangements with Mr. Stevens about the selling of these bonds?

A. It was about the first of December, in Washington.

Q. Had you any conversation with him prior to that time?

A. Yes, some time in October, I think, in relation to the bonds; about the middle I think.

Q. What was that conversation?

A. The proposition was made to the Governor, Secretary Robinson and myself, by Mr. Stevens, about selling these bonds, nothing resulted, and no official action was taken. I think the only conversation I had with Mr. Stevens was in Washington.

Q. What was the cost to the State to negotiate these bonds?

A. It cost \$350, paid out of the proceeds of the bonds sold for sixty cents—to pay my expenses to Washington—the Secretary's while there, and our passage home.

Q. What compensation, if any, did Dr. Robinson receive from Mr. Stevens?

A. I have no knowledge of his receiving any whatever.

Q. By whose authority and consent did Mr. Stevens purchase these bonds at sixty cents?

A. By the Secretary's and my own.

Q. Any other authority?

A. No other authority there.

Q. Did you not learn, at any time while in Washington, the price at which these bonds were sold?

A. I did not.

Q. Did you not learn about the price they were sold at?

A. No, sir.

Q. Did you know whether or not, they were sold for less than seventy cents to the Interior Department?

A. I did not know any thing about it at all. I inquired of Senator Pomeroy, but he said he [knew] nothing. No action had then been taken by the Department.

Q. Did you ever hear Dr. Robinson say any thing in the matter?

A. I heard him say he did not know.

Q. Was ever any money paid you by Mr. Stevens for the State bonds?

A. No, sir.

Q. Or Dr. Robinson?

A. Not that I know of, either directly or indirectly.

Q. Was Mr. Stevens at any time, prior to your going to Washington, constituted your agent for the sale of State bonds?

A. No, sir, he was not so constituted. The appointment was consummated in Washington.

Q. Do you know of your own knowledge where the balance of the bonds are, that are not accounted for?

A. The balance of the bonds not paid for by the Department, Mr. Stevens accounts for as being now in the possession of the Department.

Q. In the authority which I exhibited to you, you said the Governor's name was signed by the Secretary, Dr. Robinson—why was it done?

A. He said the Governor gave him authority to use his name, if it became necessary.

Q. Was it necessary for him to do so at that time?

A. I do not know that it was.

Q. Do you know for what purpose Mr. Stevens used that paper?

A. To show the Department that he had power to act for the State, I suppose.

Q. Did Dr. Robinson and yourself, or Dr. Robinson himself, make any application to the Interior Department, to sell these bonds?

A. No, sir.

Q. I believe it became the duty of the Secretary to countersign all the bonds, did it not?

A. It was.

Q. Was the \$40,000 War Bonds countersigned by the Secretary?

A. Yes, sir.

Q. What amount of the \$40,000 War Bonds were sold?

A. There was \$31,000 sold.

Q. Who to?

A. R. S. Stevens, agreeably to Mr. Dutton's report.

P. At what price?

A. At forty cents.

Q. You say you do know that Dr. Robinson countersigned the \$40,000 of War Bonds?

A. The law requires me to register, and I noticed that all the bonds were signed by the Governor, and countersigned by the Secretary and Treasurer.

Q. I believe these seven per cent. bonds were made with coupons, were they not?

A. Yes, sir.

Q. Where were the coupons at the time these bonds were delivered to Mr. Stevens?

A. On the bonds.

Q. I believe these were dated July 1st, were they not?

A. Yes, sir.

Q. Were the coupons due on the 1st of January, on the bonds when delivered?

A. Yes, sir, all coupons are attached to bonds when sold.

Q. Do you know what became of the coupons due on the 1st of January?

A. The Treasurer reports them as paid by him.

Q. Have you ever seen them since?

A. Have seen coupons in his office; don't know if they are the same; there is a large number.

Q. Do you know anything of the printing of the banking law that was made at the last session?

A. Yes, I know something of it.

Q. Are those accounts audited by you?

A. Yes, sir.

Q. Do the vouchers show the specific newspaper for which they were intended?

A. Yes, the vouchers will show, I believe.

Q. Did you audit an account for the publication of the banking law, for the Wabaunsee Patriot?

A. I think there was such an account audited and paid. I have searched my papers, but cannot find this voucher.

Q. Have you made diligent search for it where you thought it was to be found?

A. It was given to some legislative committee, or the Board of Managers, and I have not been able to find it since. I drew a warrant for the amount, and it was paid.

Q. What was the amount of that voucher ?

A. It was three hundred and forty-four dollars, I believe.

Q. What connection did the Secretary of State have with that matter ?

A. The accounts are sworn to by the parties to whom they are due. This banking law was to be published by the Secretary of State. I required that the Secretary's certificate should be attached to each account.

Q. Was it done on that voucher ?

A. It was on that. I did not allow any account without such certificate.

Q. In favor of whom was that warrant drawn ?

A. It was drawn in favor of J. F. Cummings, and transferred to R. S. Stevens. My books show this transfer. I was ordered to pay accounts to parties to whom transfers were made.

Attorney General to defendant's counsel.—You can take the witness.

Cross examined by Mr. Stanton :

Q. Will you state what efforts you and Dr. Robinson made to sell these bonds before or after you went to Washington, and before you made the arrangements with Mr. Stevens ?

A. We never jointly made any such effort. Knowingly to each other we wrote, I to New York, he to Chicago.

Q. What was the result of your correspondence ?

Attorney General.—I submit to the Court whether this evidence can be properly introduced, except in writing.

Mr. Stanton.—Does the gentleman object to the question ?

Attorney General.—I will not urge the objection at this time.

Mr. Hillyer.—The information I received was, that to put bonds in the New York market, would be equivalent to throwing them in the stove. I wrote to a brother in New York who had previously done some business of this kind. He said, further, he would go to Hartford or New Haven to see if a sale could be effected. He wrote to gentlemen who had dealt in securities.

Q. What conclusions did you and Mr. Robinson come to, in regard to the selling of these bonds elsewhere than at Washington?

Attorney General.—May it please the Court: I object to receiving this testimony. I am not willing that such evidence should be allowed. We are not here to try these gentlemen's conclusions. I am willing to give a broad latitude to examinations, to counteract any feelings that may arise in the minds of gentlemen, as to the apparent negligence of John W. Robinson or Mr. Hillyer, while in office. But conclusions are yours and not theirs.

Mr. Stanton.—Mr. President and Senators: This question is one of motives and purposes equally with facts. I submit to the good sense of this body, as well as to their discretion, if it is not proper for this witness to testify that he and his colleagues came to the conclusion that they could not sell these bonds anywhere else except to the Government. It is a question of motives on their part. Yet I submit, if we show this, whether it is not a question of fact also. I might put the question in another form. I could ask the witness, why did you not go to New York to sell these bonds? It would be competent for him to reply, they could not be sold there, and then state the reasons. I think, with all due respect to my friend, his objection is rather a captious one.

Attorney General.—May it please the Court: I am aware that this is a question of intent, as well as of actions; but I am not aware that it is competent, in a court of justice, to show the intent of an accused party, except by their acts. No man can stand, in such a court, and endeavour to prove that he is not guilty of a crime charged and proven, on the plea that, deep down in his heart, he did not mean to commit a crime. The question of intent is simply this: Did the party charged do an act in violation of law, and did he intend to do that act?

Mr. Stanton.—Mr. President: The principle that the intent governs the criminality of actions, is one well laid down in common law, and in all the authorities. We, therefore, claim that testimony, to prove the motives and reasons of John W. Robinson, in selling these bonds, will be perfectly legal and proper.

Attorney General.—May it please the Court: If it is true that these parties are guilty, as charged in the Articles of Impeachment upon which they now stand arraigned, it will be seen that their

plans were well laid, and that they might well seek to disguise their guilty intents from themselves and each other, by such means as these counsel are now seeking to show in justification. It is competent to prove what John W. Robinson did, but not to show his conclusions prior to such acts. I therefore object to the question.

The ayes and noes were taken on the objection, with the following result :

Ayes—Messrs. Bayless, Cobb, Connell, Curtis, Hubbard, Knowles, Lambdin, Roberts and Sleeper—9.

Noes—Messrs. Barnett, Denman, Essick, Ingalls, Keeler, Lappin, McDowell, Rankin, Spriggs and Stevens—10.

And so the objection was not sustained.

Mr. Cobb.—Mr. President: I desire to explain my vote. I understood the rule of law to be that conclusions cannot be given in evidence; only acts. I therefore sustain the objection relating to the conclusions of J. W. Robinson and the witness.

Witness.—Our conclusion was that we could not effect a sale, except in quarters other than these we had tried.

Q. Will you tell us why you did not go yourselves and negotiate with the Secretary of the Interior at Washington?

A. When I arrived in Washington, I called on Senator Pomeroy, and had a talk with him.

Attorney General.—May it please the Court: I make one more objection. If we are to go into heresay testimony, I am willing; but I desire the rules shall be relaxed generally.

Mr. Stanton.—Mr. President and Senators: If you will examine the depositions read here in the commencement of this trial, you will see that the conversations of witnesses are there reported. It is true that bonds were sold at sixty cents on the dollar, by this defendant. In doing this, we desire to see if he was specifically advised by the congressional representatives of the State.

Attorney General.—May it please the Court: I object to these witnesses giving heresay testimony. It is not proper to introduce here what Mr. Pomeroy said. As to the depositions, counsel did not object to the introduction of this class of evidence, because it told for, more than against them. Had such evidence been then objected to, I should not have resisted the objection.

The ayes and noes were taken on the objection, with the following result :

Ayes—Messrs. Cobb, Curtis, Knowles, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs—12.

Noes—Messrs. Barnett, Bayless, Connell, Denman, Essick, Hubbard and Ingalls—7.

And so the objection was not sustained.

Q. Mr. Hillyer, during the proceedings, did you and Mr. Secretary Robinson, in making the sale of these bonds, act on the advice of any other person than yourself?

Attorney General.—I object to the question.

Mr. Stanton.—Mr. President: It is hardly worth while for me to discuss this question. It is evident that this objection will be sustained. The defendant is accused of conspiracy, and we are not to be allowed to show that he, and those associated with him, acted in the matter upon the advice of our Senators and Representative in Congress. It will not injure our client if this objection is sustained.

The ayes and noes were taken on the objection with the following result :

Those gentlemen voting aye, were Messrs. Cobb, McDowell, Rankin and Spriggs—4.

Gentlemen voting no, were

Messrs. Barnett, Bayless, Connell, Curtis, Denman, Essick, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, Roberts and Sleeper—14.

And so the objection was not sustained.

Mr. Denman, in voting said.—Mr. President: By the character of this evidence, we are led to believe that our Representatives in Congress may have something to do with this matter. To get at the truth, is the only reason I have for voting "No."

The question was renewed.

Mr. Hillyer.—We did. I acted on the advice of Senator Pomeroy so far as I am concerned, almost exclusively.

Q. What advice did Senator Pomeroy give you?

A. He advised us to take sixty cents for the bonds.

Q. What was Senator Pomeroy's advice to you in relation to seeing the Secretary of the Interior yourself?

A. Senator Pomeroy told me on my arrival at Washington, that it would be impossible to effect negotiations with the Interior Department; his reasons given were, that Mr. Dole had just returned from the West, and was opposed to such investments, especially in Kansas bonds, and he believed the funds used in this were nearly exhausted. Upon a suggestion of my own, he agreed to go and ascertain the amount, if any, still left, and ascertain if possible, whether such negotiations could be effected. I called a day or two after, and he reported a sufficient amount to take all the Kansas bonds, but it was doubtful if the money would be so invested; I said to him, I expected Mr. Stevens in a few days, that he had had a good deal of business with the Department, and asked what he thought about his influence. He replied, that Stevens was the best man, and we had better do nothing till he came. I waited on that advice till Mr. Stevens arrived.

Q. Did Senator Pomeroy advise you against seeing the Secretary of Interior yourselves or not?

A. He did, thought it would do no good.

Q. After Mr. Stevens came to Washington, what propositions did Secretary Robinson make to him in regard to the sale of these bonds? I mean, what propositions were made to Mr. Stevens in allowing him to sell these bonds?

A. In consultation, it was thought best that Stevens should take the selling of the bonds, and Senator Pomeroy advised the making of Stevens, agent. I don't know that there was any proposition made as to the amounts; we decided at the first interview to make Stevens agent.

Q. At what price?

A. No price was stipulated, we supposed they would bring seventy cents. Mr. Stevens reported, before the negotiations closed, what could be done, and what not.

Q. Did not Secretary Robinson object in the first place, to receiving anything less than seventy cents?

A. He did at first refuse to accept less than seventy cents, he afterwards said, that if Pomeroy advised it, he would waive his objections.

Q. Do you not recollect of his objecting positively to sell them any less?

A. It is possible he may have said that he would not take less than seventy cents, he was very much opposed to the sale.

Q. When you first executed the paper, appointing Mr. Stevens agent, did you then contemplate taking less than seventy cents?

A. We did not expect to take any less.

Q. Do you not remember Dr. Robinson insisting on getting sixty-five cents if they could not get seventy cents?

A. He did want sixty-five cents.

Attorney General.—May it please the Court, I object to this question. The defense have no right to ask leading questions of this character. If we had asked, or called out from the witness, anything in relation to this sixty-five cents, it would be a proper question. I submit whether this examination is of a proper character. Without meaning to reflect, let us look at the facts. The witness now on the stand, stands charged under similar Articles of Impeachment, with like offenses. It is certainly fair to say, that he must therefore, have a strong bias in proving, and be induced, by ingenious questions from learned counsel, to show that John W. Robinson is a pure and honest man.

Mr. Stanton.—Mr. President: This question may be a leading one, and the form can be changed, but if we can prove that Dr. Robinson did first try to get seventy cents, then sixty-five, we admit that while this would not excuse a violation of the law, that it will be important in showing his motives. With the permission of the Senate, I will read from Greenleaf on Evidence, Vol. 1, page 188, Section 108. This will be found to bear directly upon the case:

“His declarations, made at the time of the transaction, and expressive of its character, motive, or object, are regarded as ‘verbal acts, indicating a present purpose and intention,’ and are therefore admitted in proof, like any other material facts. So, upon an inquiry as to the state of mind, sentiments, or disposition of a person at any particular period, his declarations and conversations are admissible. They are parts of the *res gestæ*.”

Attorney General.—I waive the objection.

Mr. Stanton.—Mr. Hillyer, do you remember Dr. Robinson insisting on getting sixty-five cents, if they could not get seventy cents, in some stage of the proceedings?

Witness.—I do.

Q. Do you remember at what time, or at what period^o of the negotiations Dr. Robinson finally consented to the sale at sixty cents?

A. I do not.

Q. What consideration induced you and Dr. Robinson to accept sixty cents, when the law apparently demands they shall not be sold for less than seventy cents?

A. We thought the imperative interests of the State demanded it; that is all I know of Robinson's interest in the matter.

Q. What information as to the value of the bonds, induced you and Dr. Robinson to accept sixty cents for the bonds?

A. My information, as well as knowledge and belief, was that, if we failed to sell to the Government, we lost our only chance; according to our judgment and that of Senator Pomeroy, this was our only chance.

Q. When Mr. Stevens was receiving eighty-five cents on the dollar for these bonds, why was it you and Robinson consented to take sixty cents?

A. We did not know what he was getting for the bonds, and I don't know that others did. We understood that the bonds of other States were selling for less, and we did not expect to get more.

Q. You say that when Mr. Stevens was first appointed as agent you expected to get seventy cents did you?

A. We did expect to realize seventy cents.

Q. Why then did you come so low as sixty cents?

A. Mr. Stevens reported to us that was the best he could do, that we would have to take that, for he could get no more; the negotiations were in such a shape that it could not be effected without him—Mr. R. S. Stevens.

Q. At any time during these negotiations, state whether or not these bonds were drawn from the hands of Mr. Stevens?

A. They were withdrawn when he first made the proposition of getting but sixty cents; with my views and those of the Secretary, we did not believe it would be right. I took the bonds back, and gave Mr. Stevens his receipt. Afterwards, Senator Pomeroy advised our taking sixty cents. I took the bonds from Mr. Stevens with the intention of returning home.

Q. How often did you and Robinson visit and hold interviews with Gen. Lane in relation to the sale of these Bonds?

A. I think we went together two or three times to see Gen. Lane; the business was generally done by me alone.

Q. Was it only two or three times in connection with Robinson you went to see Gen. Lane on this matter?

A. Don't think it was more than three times we went together.

Q. Did Stevens ever go in company with you and Robinson to see Gen. Lane.

A. Mr. Stevens never went with me.

Q. Did Gen. Lane ever denounce Mr. Stevens as a thief in your presence?

A. He did denounce him. I do not recollect being with Mr. Stevens in Gen. Lane's room, and hearing him denounce Mr. Stevens.

Q. You say he never denounced Mr. Stevens as a thief when he (Stevens) was with you?

A. He never denounced Mr. Stevens when he was with me.

Q. Will you state whether Gen. Lane made any propositions in regard to the sale of these bonds?

A. After I had stated to him what had been done I called upon him to sign the papers necessary to effect the negotiation. He was very angry, denouncing Mr. Stevens, and said he could not consent to do anything while Mr. Stevens was agent. We met at the Avenue House, and then took a walk. He wished me to take the agency for the State, and said he would cheerfully assist me; he asked me about what my expenses would be. I told him my expenses would be allowed. He then proposed that I should take the agency, agree upon a per centum which I would report to the State, adding thereto 5, 7, or 8 cents as I pleased, it did not matter much which, for myself, and he would help to put it through. I refused to do this; he then proposed to have me carry the money to Kansas. I agreed, and told him I thought Stevens would. The responsibility of taking money to Kansas at that time was not pleasant. He finally proposed that Messrs. Pomeroy and Conway should have charge of the sending of the money to Kansas. This suited me better.

Q. Was there any proposition made by Gen. Lane to divide the profits on the sale of these bonds?

A. None at all. I refused to have anything to do with it. No more was said.

Q. Do you know anything of Gen. Lane's having signed the letter addressed to the President?

A. I know of his signing that paper. I saw him write the name to the paper himself.

Q. Was Mr. Stevens' name in the letter at the time?

A. It was.

Q. Do you know if Lane read the letter before he signed it?

A. I do not. He took it, opened and read it, as I supposed, wrote his name to it, and returned it.

Q. Do you know if Gen. Lane's attention had been called to that letter previously?

A. Yes sir, frequently. The Secretary and myself called his attention to it. He refused that day to have anything to do with it, for the reason that we were backed by Stevens. I have no personal knowledge that he saw the paper before, only that he said, on the day we called, that he had had it.

Q. Who was present beside yourself when he signed it?

A. I do not remember that there was any one; I think not, I was in only a minute.

Q. Was Reynolds there?

A. I don't remember. It is possible he might have been. I did not notice him.

Examination in chief resumed.

Attorney General.—At the time Pomeroy recommended the sale of these bonds, to whom did he recommend you to sell them?

A. He recommended to us to accept Stevens' proposition—sixty cents, saying that, if we failed in that, we could not sell at all.

Q. Did you and Secretary Robinson tell him that the law limited you to seventy cents?

A. I did have a conversation with him in relation to a portion of those bonds, that, under the supplementary act, the law limited us.

Q. Did you state to Pomeroy that the law restricted you to seventy cents?

A. I don't know if the Secretary was present. I called his (Pomeroy's) attention to that fact.

Q. Did you tell him?

A. I did.

Q. Did Senator Pomeroy advise you to sell those bonds in violation of law?

A. He advised me to sell them at sixty cents.

Q. When General Lane proposed you should act as agent for the sale of these bonds, what price did he suggest they should be sold at?

A. He never said any thing about the price of the bonds himself, directly or indirectly, he advised me to say what amount I would return to the State, and then add the per cent., and he would assist me in putting it through.

Q. Did Secretary Robinson and yourself believe you had a right to appoint Mr. Stevens as agent for the sale of these bonds?

A. We did think we had a perfect right to do so.

Q. During the progress of these negotiations in Washington, did Dr. Robinson make any effort to sell these bonds to your knowledge?

A. Not that I know of.

Q. How much did you and Dr. Robinson suppose Stevens was to get for these bonds?

A. I never had any supposition about it; I presumed he was making a fair per cent., I did not know what he was getting.

Q. Did Robinson say about what price he supposed Stevens was to get?

A. He said he presumed that Stevens would do well.

Q. Did you or Dr. Robinson make any inquiries at Washington, what you could get for these bonds?

A. No, sir. I never spoke to the Secretary of the Interior, or Mr. Dole, while in Washington.

Q. Did Mr. Stevens or Dr. Robinson, state to you what he could get for your individual bonds?

A. No, sir, he merely consented to let them go in—that is, my individual bonds—with the State bonds. When he settled, he paid me seventy cents. He was under no obligations to do so, but did it of his own accord.

Q. How many written contracts did you have with Stevens in relation to these bonds?

A. But one.

Q. How many writings did you have in relation to these bonds?

A. A receipt or two passed there, that is all I know of. I gave him back a receipt when I took back the bonds, he gave me another receipt when the bonds were returned to him.

Q. What time in December was the paper executed, bearing date 25th or 26th of October?

A. Between the 1st and 5th.

Q. Was it as late as that?

A. It was.

Q. Do you know anything of John W. Robinson's having received any part of the proceeds of these bonds?

A. No, sir.

Q. Did you ever hear him say anything about receiving anything?

A. No, sir.

Q. Did you ever hear Stevens say any thing about paying him anything?

A. No, sir, I heard him say he had not.

Q. Was there any effort on the part of Robinson to keep these negotiations a secret, while in Washington?

A. No, sir, there was not.

Q. Or at any other time?

A. No, sir.

CROSS EXAMINATION RESUMED BY THE DEFENSE.

By Mr. Stanton.—What propositions did General Lane make you at the time you were speaking of the sale of the bonds to him?

Witness.—He simply said, I should affix a price to return to the State, and then add 5, 7 or 8 cents, and he would help it through.

Q. What answer did you make?

A. I told him I would have nothing to do with it.

Q. Did you ever represent to Gen. Lane that Stevens had nothing to do with these negotiations?

A. I never told Gen. Lane that Stevens was not connected with the sale.

Q. You never told him, he, (Stevens) had not any thing to do with it?

A. I did not.

Q. Did Dr. Robinson ever have control of those bonds at any time ?

A. Dr. Robinson never had them in his possession.

Q. Did you tell Dr. Robinson what Senator Pomeroy said about your not attempting to make the sale yourselves ?

A. Yes, sir.

EXAMINATION IN CHIEF RESUMED.

By Attorney General.—Were not these bonds under your joint control ?

A. I suppose they were.

By the President.—Did Senator Pomeroy tell you the bonds could not be sold for more than sixty cents ?

A. He did not make any such remark to me ; when I told him of it, he said that if we failed in that, case, we should probably fail altogether.

The examination of this witness here closed.

On motion Senate adjourned.

SIXTH DAY.

SENATE CHAMBER, . }
Saturday, June 7th, 1862, 9 o'clock, A. M. }

The Senate of the State of Kansas sitting as a High Court of Impeachment met pursuant to adjournment.

President in the Chair.

Roll called.

Quorum not present.

On motion, of Mr. Ingalls, the Sergeant-at-Arms was sent after absentees.

Sergeant-at-Arms appeared with Messrs. Barnett, Denman and Stevens.

On motion further proceedings under the call were dispensed with.

Quorum present.

Journal of yesterday read and approved.

Present, the Hon. S. A. Stinson, and the Board of Managers on the part of the House of Representatives.

Hon. Wilson Shannon, Hon. F. P. Stanton, and N. P. Case, Esq., attorneys for defense.

The President appointed Augustus A. Smith, Assistant Secretary, who came forward and took the following oath :

State of Kansas, }
Shawnee County, } ss.

I, Augustus A. Smith, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Kansas, and that I will faithfully discharge the duties of Assistant Secretary, of the Senate of the State of Kansas, according to the best of my ability, so help me God.

AUGUSTUS A. SMITH.

Topeka, June 7, 1862.

Sworn to and subscribed before me this 7th day of June, A. D. 1862.

T. A. OSBORN,

President pro tem. of the Senate of the State of Kansas.

Hon. Davies Wilson, on the part of the Board of Managers announced, that in consequence of the illness of Hon. P. B. Plumb, the Hon. Azel Spaulding, had been nominated by the Board, its Chairman pro tem.

Hon. Wilson Shannon.—Mr. President: We desire to inform the Senate, that Judge G. W. Smith, has been associated with counsel for defense, and we wish to have his name so recorded on the Journals.

It was so ordered by the President.

[H. R. DUTTON'S TESTIMONY.]

Mr. Dutton called and sworn on the part of the State.

By Attorney General.—I believe you are State Treasurer, are you not?

A. Some say I am, some say not.

Q. You have been acting, have you?

A. I have acted in that capacity for about a year.

Q. Have you been since the issuing of these bonds?

A. I have.

Q. I believe you were prior to the issuing of any bonds by the State, were you not?

A. I was.

Q. What amount of seven per cent. bonds have been issued under the acts of May 1st and June 3rd, 1861?

A. One hundred and fifty thousand dollars,—I think some few bonds were destroyed—the amount issued was about one hundred and forty-nine thousand, four or six hundred dollars.

Q. What disposition has been made of the bonds?

A. Sixty-two thousand two hundred dollars was issued in redemption of State scrip; the balance was given to Mr. Stevens, by order of the Secretary and Auditor, and his receipt taken for them.

Q. When were those bonds delivered to Mr. Stevens?

A. Twenty-nine thousand on the 30th of July; and the balance on the 19th of October. I have the receipts here, which show this. The receipts were handed to counsel.

Attorney General.—What amount does these two receipts call for?

A. Eighty-three thousand dollars.

Q. For what purpose were the twenty-nine thousand dollar bonds placed in your possession?

A. I was going to New York, and they were placed in my hands, if I found an opportunity to sell at seventy cents on the dollar.

Q. For what purpose were the others, of October date of receipt, in your possession?

A. They were never really placed in my hands, when I took the receipt for them. As they went out of the office, I took a receipt. They were not more in my hands for disposal, than that of the other State officers.

Q. The bonds were in your custody, were they?

A. Yes, sir. I signed them.

Q. Will you state again by whose authority or order you delivered them to Stevens?

A. First of the Auditor and Secretary of State.

Q. At the time the bonds were delivered by you to Mr. Stevens, were they complete?

A. No, sir.

Q. In what particular did they lack completion?

A. They lacked the signature of the Governor, who was not here.

Q. Was Secretary Robinson and Mr. Hillyer aware of the imperfection?

A. I presume they were. I think the thing was talked of, and the bonds were to be taken to Lawrence for the Governor's signature. I don't remember particularly, but think it was talked of.

Q. Who took these bonds to Lawrence to the Governor for his signature?

A. I think Mr. Stevens took them.

Q. What portion of the bonds do you refer to?

A. The bonds thus incomplete were those embraced in the 19th of October receipt.

Q. Did he, Stevens, make any objection on account of the lack of the signature of the Governor?

A. I don't recollect that he did.

Q. Do you recollect what he did say in relation to it?

A. I think he said they lacked the Governor's signature, and he would take them down.

Q. Do you know if the bonds ever came into the possession of the State officers, prior to Hillyer and Robinson going to Washington?

A. I do not.

Q. Do you know who took them to Washington?

A. I do not.

Q. Either from Robinson or any party concerned?

A. I think Mr. Hillyer told me he took a part of them along. After they were put in his possession, I really did not know what became of them.

Q. Do you know, from Mr. Robinson, what disposition was made, by them, of those bonds?

A. I heard him say they were put in Mr. Stevens' hands as agent of the State to sell them, with the understanding that the State bonds were to be sold at sixty cents.

Q. Did Dr. Robinson, at that time, say anything of the right to sell?

A. Before he went away, he was of the opinion the law did not limit the fifty thousand dollars.

Q. At any other time?

A. I think he did.

Q. Did he express his opinion as to the limitation of the bonds?

A. I will give you what he said.

Q. What was that?

A. It was about making arrangements with Mr. Stevens to sell the fifty thousand at forty cents, and the balance at seventy cents.

Q. The fifty thousand dollar bonds referred to, are those issued under the act of May 1st, are they?

A. They are.

Q. Is this the signature of Mr. Stevens?

A. It is.

Attorney General.—May it please the Court: I propose now to offer in evidence these two receipts:

Received, Buffalo, July 30th, 1861, of H. R. Dutton, Treasurer of the State of Kansas, twenty-nine thousand dollars in bonds of the State of Kansas, of the denomination of five hundred dollars each, and numbering from one to fifty-eight, inclusive, which are to be sold at seventy cents on the dollar, or returned.

R. S. STEVENS.

Received of H. R. Dutton, State Treasurer, State bonds of the denomination of one hundred dollars each, numbering from six hundred and seventy-one to one thousand, both inclusive; also of five hundred dollar bonds, numbering from fifty-nine to one hundred, both inclusive.

R. S. STEVENS.

Topeka, October 19th, 1861.

Q. By whose direction were the words limiting the sale to seventy cents inserted in the July receipt?

A. By the Auditor and Secretary of State; that was their directions. They did not authorize me to put them in Mr. Stevens' hands, but gave them to me to sell at that price.

Q. What amount of bonds were there issued under the act authorizing the issuance of bonds; besides those mentioned, how many were issued?

A. Sixty-two thousand two hundred dollars was used in the redemption of scrip. At the time those receipts were taken, five

thousand dollars was retained for the redemption of any scrip that might come in between then and the time of sale, if sold.

Q. What became of that five thousand ?

A. I do not know. I think they were taken on and put in the sale. I judge so from Mr. Hillyer's report.

Q. All these bonds were dated July 1st, and the first coupons came due January 1st, do they not ?

A. Yes, sir.

Q. What do you know of these coupons ?

A. They were paid.

Q. To whom ?

A. All the five hundred dollar bonds to R. S. Stevens, and a portion of the one hundred dollar bonds.

Q. To whom were the balance of the coupons paid ?

A. They were paid to various parties on presentation. Some are not paid yet.

Q. Can you state the parties to whom they have been paid ?

A. I am not able.

Q. Do you keep no record to whom they have been paid ?

A. Some were paid at the Ocean Bank in New York.

Q. Those that have been paid here ?

A. I have paid here to fifty different parties : some to Stevens, and some to others.

Q. I refer to those in the receipts.

A. I never paid them to any other person except Mr. Stevens.

Q. Did you ever have any conversation with Dr. Robinson in this matter, after his return from Washington ?

A. Very little. That was what I repeated a few moments ago, in regard to making Mr. Stevens agent.

Q. Did he ever state to you what amount Stevens sold them for ?

A. He never did, sir.

Q. Did he never state anything else, except what you have here stated, in reference to the sale of these bonds ?

A. I don't recollect of anything else. The parties did not say anything for several days after their return. I did not know of a sale being effected for some days after.

Q. Was there anything said by Dr. Robinson, in relation to the coupons?

A. No, sir. I do not remember having any conversation on the subject with him.

Q. Were you aware, at the time you paid those coupons, that they were the property of the State?

A. No, sir.

Q. Were you aware what bonds they were that these coupons belonged to, when you paid them?

A. Yes. I was told by Mr. Hillyer that the bonds were sold. I asked him directly if the January coupons were included in the sale, and he said they were. I am not certain if the Secretary was present when I asked the question, but I do not think he was.

Q. At what price have these bonds been accounted for to the State Treasury?

A. So much as has been accounted for at all, at sixty cents.

Q. What portion have been accounted for to the State Treasury?

A. About fifty-two or fifty-three thousand dollars; I cannot tell you exactly.

Q. What bonds have been so accounted for?

A. I cannot tell you. I have no report what particular bonds have been paid.

Q. You mean sixty dollars on the face, do you?

A. I mean sixty dollars for one hundred dollars.

Q. What portion of the forty thousand dollar war bonds have been sold?

A. Thirty-one thousand dollars.

Q. At what price?

A. Forty cents.

Q. Do you know anything of the printing of the banking law in the Wabaunsee Patriot?

A. I do not.

Q. How many numbers of that paper have you seen?

A. I remember seeing that paper, but don't remember seeing but one number of it. I never heard of it till I saw it on my table.

Q. About what time was that?

A. About the time of the publishing of the Banking Law.

Q. About the time of election was it?

A. About that time I think.

Q. Have you seen it since that time?

A. I have not.

Q. Do you know where it was printed?

A. I do not, except what I have been told; I do not remember who told me.

Q. Were you told by Dr. Robinson?

A. I never had any conversation with him on the subject.

CROSS EXAMINED BY DEFENSE.

By Mr. Stanton.—By whom were the bonds placed in your hands, in July, when you went East?

A. They were in my hands with the consent of the Governor, Secretary and Auditor.

Q. You mean the seven per cent. bonds, do you?

A. Yes, sir.

Q. Did you make an effort to sell them in New York or elsewhere?

A. No, sir. I talked with parties about selling them, but found no prospect.

Q. Did you take them with you for that purpose?

A. I took them with the hope of selling them at seventy cents?

Q. The reason you did not make an effort, was because you believed it to be useless, was it?

A. Yes, because it was useless.

Q. What was the highest price you could get for the War Bonds?

A. I could get none at all.

Q. It was on your return in July, that you gave these bonds to Stevens, was it?

A. Yes, sir, on the 30th of July, at Buffalo.

Q. Did you say you had the authority so to do?

A. No, sir; I had not.

Q. Was there any offer made for any of these bonds in Leavenworth?

A. I talked with Mr. Clark, who asked me if I wanted to sell them. I asked him to state what price he would pay.

Attorney General.—I object to the question.

Mr. Stanton.—Mr. President and Senators : I do not wish to be understood as offering evidence here, or asking the admission of that which is not legal and proper. Counsel on the other side knew that we are not so asking. With the permission of the honorable gentleman, I propose to read some authorities upon which we base our claim.

Attorney General.—I do not press the objection.

President.—The Court has already decided on a similar point, and unless gentlemen wish to hear the authorities, the argument will be out of order, as the Attorney General does not press his objection.

A Senator.—Let us have the authorities.

Mr. Stanton then read from Greenleaf on Evidence. Vol. 1, Sec. 101, as follows :—

“ Thus, where the question is, whether the party acted prudently, wisely, or in good faith, the information on which he acted, whether true or false, is original and material evidence.”

From these authorities I submit to gentlemen, whether it is not relevant to introduce evidence as to the advice upon which a man acts.

Attorney General.—If the Court please, I do not propose to argue the question now, because it has been overruled, but every gentleman and Senator knows that this evidence is not admissible. It is not competent to go into past history—party's acts from childhood bear upon his future deeds. The principles are correct as to information relating to advice on which a man acts under certain circumstances ; but not in this case. The gentleman well knows that it is never proper to the extent to which they seek to carry it. If there is no limitation then, we can go into every act of a man's life. It is only when he acts directly upon information and advice, and then in cases entirely different from this, that such evidence is competent. I submit gracefully to the ruling of the Court, but do not wish to be understood as succumbing to authorities, and I wish the records to show, that I, as a lawyer, know better than to believe this testimony is admissible. I am willing to go before the people and stake my reputation as a lawyer on the relevancy of my objection. I do not wish to exclude, but simply to show and save the objection.

Mr. Stanton.—Let us understand each other. The evidence we propose to introduce is not hearsay, but information directly given him by Mr. Clark, as to the market value of these bonds.

President.—It will be necessary to call the roll.

Attorney General.—Mr. President: I wish to be distinctly understood. I do not desire to occupy the time of the Senate by insisting upon, and compelling a vote upon objections. After the decision of the Court, indicating the intention to disregard the well established rules of evidence, with the permission of the Court, I will, therefore, have noted in the report, that the Board of Managers and myself, object to the mass of hearsay and incompetent testimony, which the course of the defense will bring into the case. This I do as a matter of justice to those appearing here on the part of the prosecution, that it might appear that they were not so flagrantly ignorant of, or derelict in their duty, as to consent to the introduction of a class of evidence, which experience has demonstrated to be entirely unsafe and unreliable, and calculated only to mislead the minds of Senators. I therefore object to the question, and ask that it be recorded, as is often done in Courts of Law.

President.—It will be so ordered, unless the Senate object.

Witness.—^{Ans.} Answer resumed: He said he might want some at twenty-five cents.

Q. Was that the only offer you had at Leavenworth for the Bonds?

A. Yes, sir.

Q. Mr. Clark is a Banker, is he not?

A. He is.

Q. Do you know any parties at Leavenworth who wanted these bonds at par?

A. I don't know of them.

Q. What was the value of the seven per cent. bonds in Kansas?

Attorney General objected.

Witness.—I do not know what was their value. I know what could be obtained, as scrip was selling at from 50 to 60 cents on the dollar; that would be from 35 to 40 cents, their value.

Q. What was their value in the money market, any where in the United States—to your knowledge?

A. So far as my knowledge extends, they had none.

Q. Were you a member of the Senate at the time the law authorizing the issuing of bonds was passed?

A. I was.

Q. Do you or Dr. Robinson know what was the prevailing opinion as to the construction of the law, by members of the Senate?

Attorney General.—Here is a question to which I shall certainly object, if the the Court please. If a man were indicted for larceny, it would not be competent to bring forward a Representative to prove that the law was not intended to apply to a horse.

Mr. Stanton.—Mr. President: We well know that, if all the members of the Legislature believe in a certain construction of the law, that belief would not make their opinion, the law. We propose to prove that John W. Robinson honestly believed, that the law intended the issuing of War Bonds enough to raise twenty thousand dollars; we know that belief is not the law; but, if he acted fairly in the matter, as to his belief, he certainly is not guilty of any crime. Had he received advice from legal counsel—the Attorney General, for instance, as to this particular construction of the law, he certainly would not be considered dishonest in acting upon it. We wish to prove by Senators, what construction they put upon this law.

Attorney General.—I withdraw my objection; you have done all the damage you can.

Mr. Stanton.—That is just what I expected from so manly and learned a gentleman.

Attorney General.—Do not misunderstand me! I wish to ask Senators similar questions, and before I am through, I will show the folly of the proposition. I withdraw my objection.

The question was resumed.

Witness.—I do not know that Dr. Robinson heard the opinion of other Senators than myself. It was my own opinion, and that of others, that the law authorized the issuing of enough bonds to raise \$20,000 in money.

Q. Did you convey your opinion or belief to Dr. Robinson?

A. I did.

Q. Did Dr. Robinson express his concurrence in that belief?

A. We talked of it. At the time there was no doubt of it in my mind.

Q. Was there any doubt in his mind ?

A. I think not.

Q. What number of Senators expressed their opinion at the time you conversed with them ?

A. I don't remember particularly—I have conversed with several.

Q. Can you tell how many ?

A. I cannot certain—some eight or ten.

EXAMINATION IN CHIEF RESUMED.

By Attorney General.—How many bonds did you take with you when you went East.

A. Twenty-nine thousand dollars.

Q. You say you handed them to Mr. Stevens ?

A. Yes, sir.

Q. The bonds mentioned in the October receipt—by whose authority did you give them to Mr. Stevens ?

A. They were given to him by the authority of the Auditor and Secretary.

Q. What Senators did you hear express their opinions in regard to the bonds ?

A. Messrs. Osborn, Hubbard, Denman, Hoffman and Mr. Ingalls—who was the Secretary of the Senate.

Q. Who have you heard express an opinion to the contrary to issuing of the (20,000) twenty thousand ?

A. I speak of these gentlemen as conversing with them on the law. Not all as concurring with me.

Q. How many concurred in your opinion, at the time of the law being made ?

A. I do not know positively. Remember Colonel Martin particularly.

[J. H. McDOWELL'S TESTIMONY.]

Senator McDowell sworn in his place.

Attorney General.—You were a member of the Senate at the time the law was passed authorizing the issuing of bonds, were you not ?

A. I was.

Q. Have you any recollection of the time the law was passed?

A. I have.

Q. Have you any means of knowing or recollecting of the opinion of the Senators, as to the limitation put upon the seven per cent bonds, at the time the act was passed?

A. Nothing but the expression of opinion as given.

Q. What was that expression?

A. Some gentlemen insisted on them being put at par; one from Douglas county—Judge Miller—thought they should be put at ninety-five cents; some thought no limitation should be put on, I was one; we thought the agents of the State should sell at what they could get—sixty and sixty-five cents was mentioned; a compromise was made at seventy cents. Judge Miller, I think, had his protest entered upon the record.

Q. For what purpose was the limitation of seventy cents put upon these bonds?

A. As I understood it, that they should not be sold less than seventy cents.

Q. Was the object to prevent the sale at less?

A. It was, as I understood.

Cross examined by the Defense.

Mr. Stanton.—Do you know if Dr. Robinson knew these opinions?

A. Not unless he was present.

Examination in chief resumed.

Attorney General.—Were the proceedings public?

A. They were.

Q. Was Dr. Robinson Secretary of State?

A. He was then.

[H. B. DENMAN'S TESTIMONY.]

Senator Denman was sworn in his place.

Attorney General.—Will you state what your recollection is in regard to this matter?

A. My understanding in relation to the act authorizing the issuing of bonds for \$150,000, and the act supplementary thereto; that the limitation of seventy cents therein was intended to prevent the sale for less.

Cross examined by Defense.

Mr. Stanton.—Did you ever communicate that opinion to Dr. Robinson?

A. No, sir.

[J. F. CUMMINGS' TESTIMONY.]

J. F. Cummings was then called and sworn.

Attorney General.—What is your profession?

A. Printer and Editor.

Q. In the fall of 1861, was you the proprietor of the *Webaunsee Patriot*?

A. I was.

Q. Where was it printed?

A. In the Tribune office, at Topeka.

Q. How many numbers were printed?

A. I think ten—I am not certain.

Q. Was the banking law published in it?

A. It was.

Q. By whose authority?

A. Well, sir, by my own substantially—about the time of publication I went to Secretary Robinson and asked his permission to publish the banking law, which he refused. About two weeks after, I went again; he still refused, but said I might go on and publish it, and he would try and get an appropriation and pay me.

Q. After you completed the publication of that law did you get your pay for it?

A. I did.

Q. In what manner?

A. I took my account to the Secretary's office, and D. H. Weir certified to it. Dr. Robinson was absent, at the time.

Q. In what capacity was D. H. Weir acting?

A. He was said to be acting as Assistant Secretary of State.

Q. Was he acting in that capacity?

A. He was in the office.

Q. Did Dr. Robinson know of the certificate being given?

A. He could not have known at that time.

Q. When was the certificate given?

A. In the middle of November.

Q. How soon after it was certified to was the warrant drawn?

A. The warrant was not drawn till after Hillyer's return.

Q. To whom was it assigned?

A. It was assigned in blank, and filled to R. S. Stevens.

Cross examined by the Defense.

Mr. Stanton.—You say the paper was printed in Topeka, where was it published?

A. At Wabaunsee.

Q. Did you have a local editor at Wabaunsee?

A. I did.

Q. Did you make affidavit to get your pay?

A. I did.

Q. How many copies were circulated in the county?

A. About 100 at first, and afterward nearly 200 copies. They were sent to Mr. Lines, the local editor.

Q. Is it ever the case that papers are printed at one place and published in another?

A. I have known the same thing done in Ohio.

Q. Was that paper published during the time authorized for the publication of the banking law?

A. Yes, and for some weeks longer.

Q. When you commenced the paper did you expect to continue it?

A. I expected to continue it six months, and longer if it paid.

Examination in chief resumed.

Attorney General.—How many paying subscribers did it have?

A. About 100. I think Mr. Lines collected the money, but has never yet made a settlement.

Cross examination resumed by defense.

Mr. Stanton.—Was there any other paper published in Wa-county, at that time?

A. Not that I have any knowledge of.

By a Senator.—Was Senator Hubbard a paying subscriber to the paper?

A. I cannot say, but can refer to my books.

By a Senator.—What was the reason it was not continued six months, as at first intended?

A. From the fact that at the time I lost the second of two children who died, my wife was sick then, and I had to go away with her, and I had nobody to take charge of the paper. I will say here that it was my intention to publish the paper till after the first of April, in order to get the publication of the county tax list.

Gov. Shannon.—Where did you go to?

A. Went to Leavenworth and elsewhere in the State for several weeks.

Sergeant-at-Arms sworn.

Q. I believe you had an attachment for D. H. Weir?

A. I did.

Q. What search, and what inquiries did you make for him?

A. I went to Lawrence and there discovered that he was at Laporte, Indiana.

Q. Have you made diligent search for him?

A. I have.

Q. From what source did you receive your information?

A. Chiefly from Mr. Finlay.

Q. What was his means of knowing?

A. His wife had received a letter from Mrs. Weir, dated on Monday last, from that place, in which she said David (Mr. D. H. Weir) was at home then.

[C. K. GILCHRIST'S TESTIMONY.]

Secretary pro tem. of the Senate sworn.

Q. What do you know of Mr. Weir's location at present?

A. Mr. Weir wrote to our firm, about a week ago, from Chicago, stating that owing to his business there, he would be prevented from attending to a case he had in the Shawnee County Court, which was to be heard in a short time. The first we had heard of him for some time, was this letter from Chicago.

Q. Was your letter post marked at Chicago?

A. It was.

[H. L. JONES' TESTIMONY.]

Hon. H. L. Jones, of the House of Representatives, was sworn.

Attorney General.—Are you a member of the House of Representatives?

A. I am.

Q. Was you a member of the Investigating Committee of the House?

A. I was.

Q. Will you state if any letter came before the Investigating Committee, written by John W. Robinson, and whose hands it came from?

A. The letters which are printed on pages eight and nine in the pamphlet report of that committee, were placed in our hands by D. H. Weir.

Q. Whose hand writing were they in?

A. To the best of my knowledge, they were in the hand writing of Dr. Robinson.

Q. Were they signed by him?

A. They were signed J. W. Robinson.

Q. What became of them?

A. Mr. Weir stated there was some private matters in them, and he wished them returned to him; they were so returned.

Q. What was the contents of those letters?

Objected to by defendant's counsel.

Attorney General.—Mr. President: This objection would come with bad grace from gentlemen who have so recklessly availed themselves of the lax rules of evidence established by this Court, even if I had not brought myself within the strict legal rules as to proving, by parol, the contents of a written instrument. We have shown that we have taken the necessary steps to secure the attendance of Weir; we have proved that, without fault or negligence on our part, he is now beyond the jurisdiction of this Court; the letters, the contents of which we propose to prove, were his private correspondence and in his possession; and the law still presumes them to be there. Under these circumstances, I would be entitled to prove by parol the contents, as I will now show by an extract from Greenleaf, 1 vol. sec. 558. That portion to which I specially refer reads as follows: "If the paper was supposed to be of little value, or is ancient, a less degree of diligence will be demanded, as it will be aided by the assumption of loss, which these circumstances afford. If it belonged to the custody of certain persons, or is proved or presumed to have been in their possession, they must, in general, be called and sworn to account for it, if they are within reach of the powers of the court." I have attempted, during this examination to confine myself to legal and competent testimony, and from this course I do not propose to depart.

Mr. Stanton.—Mr. President: The position assumed by the Attorney General is correct in one particular and on one condition: that is, if they have tried and used due diligence to get possession of the papers.

Attorney General.—Where a party is beyond the jurisdiction of the court, all Senators know it is impossible for us to get these papers. They could only be obtained by an attachment of his person, if the party was in the jurisdiction of the Court. The law requires only such a search as covers the usual places of deposit. If a party keeps his papers in a safe, and on searching, it cannot find them, he necessarily says he can't find them; that he has made diligent search, and must be so construed, in the meaning of the law.

Mr. Stanton.—The law requires diligence. I understand his residence is in this city, and possession of the papers might be obtained by a search thereof.

Secretary of the Senate recalled.

By Defense.—Please state the manner of service of the subpoena on Mr. Weir.

A. He called in my office while I was making out subpoenas, and stated he was going away, and the Sergeant-at-Arms would not be able to find him to subpoena him. He said he would acknowledge service, which he did.

By the President, to the Senate.—Shall the objections of the defense be sustained, and the testimony be excluded?

The ayes and noes were called on the objection, which resulted as follows:

Twenty-one gentlemen having voted in the negative, the objection was not sustained.

The question resumed.

Attorney General.—What was the contents of those letters?

The following copies of letters from J. W. Robinson to D. H. Weir, were then introduced by the witness:

WASHINGTON, Dec. 8, 1861.

FRIEND WEIR:—Strange to say, I am still in this city, and when I am to leave the Lord only knows.

We are at work as hard as possible, for the interests of the State; and if we succeed we shall put Kansas upon good footing; if not, Heaven knows what will become of her—I do not! We want nothing said there about bonds at all—not a word. I was indiscreet enough to mention Pomeroy's name to one or two whom I supposed I could trust, telling them not to let him know that I had said a word, and forthwith half a dozen start up and send him bonds as a private agent. He cannot but know the information comes from me, when he has sworn to keep his name entirely away from the name of bonds.

The bonds you sent are in Stevens' hands, I think; at any rate, Pomeroy has sent them to some Kansas man, and I believe it is him.

We have been steadily at work ever since we came, and have accomplished a good deal; but we have one very important obstacle to overcome yet, and it depends entirely upon this whether we succeed. I am not very sanguine myself, and yet it is life or death

with Kansas. If bonds are not now sold, they never will be sold, or not for a long time to come. * * *

Keep entirely "mum" about the *bonds*. Do not say a word to any person alive, not even to your wife; for we want it as secret as it can be till it is fixed.

Yours very truly,
J. W. ROBINSON.

D. H. WEIR, Esq.

WASHINGTON, Dec. 10, 1861.

MY DEAR WEIR—

A day or two since, I wrote you a line, but fearing you may not receive it, I repeat it now.

It is a matter of uncertainty what day I may be able to start for the land of my adoption, but I hope it may be as soon as the first of next week, to-day being Wednesday. The whole of this government machinery moves so terribly slow that no man can ever say, with even tolerable certainty, how long he may be detained by it. I had no idea, when I arrived in this city, that I should spend more than four days at the longest, and here I have been four weeks and more; and had not the interests of Kansas been jeopardized, I should have left long ago; but we have waited and waited, and worked and worked, till I have become tired and worn out. We hope to succeed.

We have removed obstacle after obstacle, and at last we have unexpectedly run against the President himself; and now are at work trying to overcome his objections. I hope we may succeed, but the Supreme Ruler only knows what other things may present themselves when this is done. If we do succeed, Kansas will be placed upon tolerable decent footing; if not, God only knows what will become of her, or how she will get along. There is no other prospect of disposing of bonds *anywhere* else in the Union. The money market is closed up; no stocks but those of the Union are touched or looked at.

Don't buy any more bonds, unless you want to be bitten. And, as I said in my former letter, keep "mum entirely" about bonds. Say nothing to nobody.

Pomeroy is quite indignant to think that somebody must have used his name in connection with the Kansas bonds, and sent him, and attempted to make a broker of him. He has not said much to me about it, but I hear it from others. So I want you to be very careful, indeed, what you say, and especially say nothing about bonds in connection with Washington or any of the State officers.

* * * *

Yours very truly,

J. W. ROBINSON.

D. H. WEIR, Esq.

WASHINGTON, Dec. 18, 1861.

FRIEND WEIR:— * * * We have encountered every thing but death in trying to negotiate our bonds. We have altered proposition after proposition, and met with obstacle after obstacle, until I have been discouraged, disgusted and thoroughly mad. The last one is Jim Lane, an enemy of Stevens, and, of course, would let his duty to the State run into the ground, if he could gratify his personal hatred. I am still in hopes that we may be fortunate enough to effect a negotiation. * * *

I had an interview with Mr. Lincoln, night before last, in his private parlor; and he seemed desirous to do all he could, and promised to order the negotiation made if it was not seriously opposed by any of his Cabinet, or the people of our State. We shall try to conciliate Lane any way, and if we fail, he must take the responsibility.

There are one thousand dollars of your bonds. We shall have them put into the sale, if made at all, at whatever the State (or we) get for ours, of course; but we shall get the seventy cents, as I had hoped, before leaving. We may, possibly, put the whole lot at sixty cents, but it will never hurt the State a dime, or will ever be heard of, but I shall thank God. * * * "Keep still."

Yours, &c.,

J. W. R.

Q. What did you hear Dr. Robinson say, in regard to the sale of these bonds?

A. I was a member of the Investigating Committee. Dr. Robinson stated before that Committee, that Mr Hillyer and himself made a sale to Stevens at 60 cents on the dollar for those bonds.

Q. Did he state about arrangements being made with Stevens, prior to his going to Washington?

A. To the best of my recollection, he did.

Q. What did he state in relation to that matter?

A. That he was at a consultation with the State officers about the bonds, and that they were clearly of the opinion that a portion of the State bonds could be sold without limit. That he agreed to Mr. Stevens' proposition of sixty cents.

Q. What did he say of an agreement between Mr. Stevens and himself?

A. Don't remember positively as to any agreement between Stevens and himself.

CROSS EXAMINATION BY DEFENSE.

By Mr. Stanton.—Are these letters the same as the originals you saw?

A. Yes, sir.

Q. Were they copied from the originals?

A. They were copied, so far as any matter relating to the State bonds.

Q. There are many omissions are there not?

A. Yes.

Q. State what those omissions are?

A. One was in relation to property of the State, such as chairs, tables, etc., being got together for the Legislature; stating what parties had borrowed them, and giving their names. Another omission was a description of Judge Conway's speech in the House of Representatives.

Q. Did you compare the printed letters with the original ones at the time?

A. I did compare.

Q. Are they correct copies?

A. They are correct. In the line next to the last, it will be observed it does not make sense—one word in that line was indistinct in the last letter, and we could not decide what it was.

Q. You said Secretary Robinson told you that the State officers had come to the conclusion, they ought to sell the bonds at whatever price they could get, did you not?

A. Yes, sir, that is my remembrance.

Q. But that they differed in their conclusions as to what to take?

A. I don't remember that he told me their conclusions as to that.

By Case.—In the omitted paragraphs of that letter, what was the language used, or what was its purport?

A. I could not remember distinctly. I cannot remember exactly.

Q. Can you not state what was in the paragraph next to the first?

A. It would be impossible for me to do—paid little attention to anything but the bond matter.

[J. M. HUBBARD'S TESTIMONY.]

Senator Hubbard was sworn in his place.

By Attorney General.—Are you from Wabauuase County?

A. I am.

Q. Do you know of a paper called the Wabaunsee Patriot?

A. I have seen it.

Q. How long was it published?

A. Perhaps six or eight weeks.

Q. Was it permanent or not?

A. I can't answer that question.

Q. Where did the paper come from?

A. It came to the post office, our mail comes from Tepeka.

Q. When did it commence?

A. I think about the 1st of October.

Q. Was it continued during the publication of the Banking Law?

A. I should think it was.

Q. How long after did it suspend?

A. Not very long after, I cannot give dates.

Q. Is it published now?

A. It is not.

Q. Is there any office in Wabaunsee, to your knowledge?

A. Not any.

By President.—Were you a paying subscriber?

A. I think not.

Examination of this witness closed.

On motion, the Senate adjourned.

AFTERNOON SESSION.

Saturday, June 7, 1862, 2 o'clock, P. M.

Senate met pursuant to adjournment.

President in the chair.

Roll called.

Quorum present.

Absentees:—Messrs. Bayless, Essick, Hoffman, Holliday, Lynde, McDowell and Morrow.

Attorney General.—Mr. President: On the part of the Board of Managers and myself, I would suggest, if the Court please, that it adjourn till Monday morning. We wish to call an important witness, Gen. Collamore, who will probably be here to-night or to-morrow. We are not prepared to rest here, nor do we like to proceed, and therefore ask the indulgence of the Senate by an adjournment.

The request on the part of the State was agreed to, and the Court rose.

Mr. Holliday.—Mr. President: I beg leave to offer the following resolution. Accompanying it, I desire to present these papers, purporting to be the certified returns of an election held on the 2nd of June, in the Fifth District. The supposed vacancy was caused by the reported acceptance by the Hon. Edward Lynde, of a commission as Colonel in the service of the United States. That question has before been referred to a committee, from whom we have had no report as yet. I move the adoption of the following:—

WHEREAS, It appears by returns presented to the Senate, that an election was holden on the 2nd day of June, inst., for a Senator from the Fifth Senatorial District;

AND WHEREAS, It appears by said returns, that Jerome Kunkle has received a majority of all the votes cast at said election: Therefore,

Resolved, That Jerome Kunkle be, and he is hereby admitted to a seat in this body as Senator from the said Senatorial District.

Mr. Denman.—The action proposed by the Senator from Shawnee, is certainly singular. We have no evidence except common rumor, that Senator Lynde has accepted the Military Commission stated, and therefore, do not know that the seat is vacant. We know that the Senate has not declared it vacant. I do not think that this body, assembled for the special purpose for which it has now met, has the right to declare a Senator's seat vacant. It will be remembered, Mr. President, that counsel for the defense, in arguing their late motion against the jurisdiction of this body, declared that the Senate having adjourned *sine die*, it could not now be legally assembled. The Attorney General met this, Senators will remember, by the argument then advanced, that the Senate, sitting as a High Court of Impeachment, adjourned on the 28th day of February, until the 2nd day of June; and that the adjournment *sine die*, was that of the Senate in its legislative capacity. It was then affirmed, that our present session being for a special purpose, was perfectly in accordance with legal principles. Under the vote of the Senate rejecting that motion, it was declared that we accepted this limitation of our powers, and that we were here in the exercise of the Senate's judicial functions, and not that of its legislative. The question would then arise whether we had the right, sitting in that special capacity, to declare the seat of a Senator vacant. To do this in the case presented, would seem to me to be clearly beyond our present functions. Mr. Kunkle's case does not present the same features as that of the Senator from Wyandott, Mr. Cobb, who was sworn in some days since. In the latter case, the Senate at the last session, acting in its legislative capacity, declared the seat vacant; and Mr. Cobb presented himself here with the proper credentials, and we could not have refused him the seat. We have decided by the acceptance of the position of the Attorney General, that we have no legislative functions; that we are here as judges, and it does not seem to me that the power here asked to be exercised, comes within such duties.

It may be said that the people of this district have a right to be represented in this Court of Impeachment. It is true, they have such a right. But the people elected Mr. Lynde, and if he fails in his duty to them, it is their privilege to call him to account. This dereliction is between him and his constituency. We have no evidence that Mr. Lynde has accepted a commission in the military service of the United States; but admitting for argument's sake that he has, still, it is my opinion that we have no right, at this time and session, to declare his seat vacant. I think so for the reasons already given, and say it now, because I do not wish to be at variance with my former votes in relation to Senators holding such commissions. That vote was cast at the regular session of the Legislature, when the House was also assembled, and the Senate was in full possession of its legislative functions. When the evidence was presented that the gentlemen whose seats were then declared vacant, if holding commissions in the service, I immediately voted against their right to remain. I would have done so in the case of Mr. Lynde had such evidence been given. But at the present time, I think we are quite incompetent to exercise such power, and trust that we will not stultify ourselves by any doubtful exercise thereof.

Mr. Holliday.—Mr. President: The imperfection of proof in this claim of Mr. Kunkle, seems to be the only argument which can be advanced against it. The same objection lies against all the members who are here filling seats, declared vacant at the last session. The same informality attaches to them, as in this case. The other objections urged by the Senator, does not strike me as very strong. The organization of this body, is legislative in its character. That the default in the act shall not invalidate the election, is the plain principle of our State Constitution. Such informalities as are complained of, cannot render void the will of the people. Full publicity was given to the matter, and the Senate cannot refuse to recognize Mr. Kunkle's claim. The Senator from Leavenworth says that the want of representation in this body is a question for the people and Lynde to settle between themselves. The argument is weak and untenable; but to accept it. The people have made the issue, and send Mr. Kunkle with their indorsement, desiring that he shall fill the chair unoccupied by Mr. Lynde. Our duty is to admit him. Let us do so, and thereby secure a representative in this body to them.

Mr. Stevens.—Mr. President: Let us examine this claim by the light of the returns here presented. I am told that the ordinary vote of Shawnee county alone is from fifteen hundred to two thousand. Jefferson county is also attached to this district; yet the total number of votes cast at the election of last Monday, was only two hundred and sixteen. Admitting that this was a legal election, let us examine, for a moment, this total. May there not be other precincts to be heard from, and has sufficient time elapsed for all to send in their returns? It is said that notice was given of the time and places of holding election. Surely, then, the people were not so indifferent as this vote would show, to whether they should have a voice in this body or not? If this is to be the way and the evidence on which Senators may be admitted, why may not some parties go down to Woodson county, issue notices, hold an election, get a score or two of votes cast, and returning here, by Wednesday or Thursday, claim the seat of Mr. Hoffman, who is also reported to have accepted a military commission? These charges of informality are, in this case, perfectly valid. I am informed that there are no returns filed in the office of Secretary of State. And here, I perceive among these papers, what purports to be a return of votes cast at Oskaloosa, certified to by Mr. Dutton, who, I presume, is the County Clerk; but no official seal, or other mark of validity attached, is to it. On the other side, is what purports to be a note from Mr. Dutton to Mr. Kunkle, in which he says that, if the election had been better known, there would have been more votes cast. These things will show the character of this vote, and, I trust, the Senate will reject the claim. In thus speaking, I mean no disrespect to Mr. Kunkle, whom I have long known as a worthy gentleman.

Mr. Sleeper moved, as a substitute for the original resolution,

That the whole subject, now under consideration, be referred to the Committee on Elections, with instructions to inquire into the supposed disability of Edward Lynde to hold a seat in the Senate from the [fifth] Senatorial district.

Upon this the yeas and nays were called, and resulted as follows:

Those gentlemen voting aye were

Messrs. Cobb, Curtis, Denman, Essick, Holliday, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Sleeper, Spriggs and Mr. President—15.

Those gentlemen voting no were

Messrs. Barnett, Bayless, Connell, Hubbard, Rees, Roberts and Stevens—7.

And so the motion prevailed.

Messrs. Connell and Knowles were appointed on standing Committee on Elections, to fill vacancies.

On motion, the Senate adjourned.

SEVENTH DAY.

SENATE CHAMBER
Monday, June 9, 1862. }

The Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the Chair.

Roll called.

Quorum present.

Absentees—Messrs. Denman, Hoffman, Holliday, Lynde and Morrow.

Journal of Saturday read and approved.

Present:—Hon. S. A. Stinson, and the Board of Managers on the part of the House of Representatives.

Hons. Wilson Shannon and G. W. Smith, and N. P. Case, respondent's attorneys.

Mr. Roberts, Chairman of Committee on Elections, submitted the following report:

MR. PRESIDENT:—Your Committee, to whom was referred the subject of the disability of the Hon. Edward Lynde to hold a seat in this body, as Senator from the sixth Senatorial district, and also as to validity of the election of Mr. Kunkle, would recommend that the whole matter be indefinitely postponed, for the following reasons:

1st. We find, on inquiry of the Secretary of State, that he has no official information that Hon. Edward Lynde has been commissioned as a military officer.

2d. That no returns of the election of Mr. Kunkle are to be found in the office of the Secretary of State.

3d. It is not our province, as a committee of the Senate, to act as canvassers for any Senatorial district.

THOMAS ROBERTS, Chairman.

On motion of Mr. Connell, the report of the Committee was adopted.

[DR. TEFT'S TESTIMONY.]

Examination in chief resumed by Attorney General.

Dr. Teft called and sworn on part of State.

Attorney General.—Where do you reside?

A. Topeka.

Q. Are you acquainted with Dr. Robinson?

A. I am.

Q. Did you ever have any transaction with him, in relation to State bonds, last fall?

A. I did.

Q. What was it?

A. He called on me at one time to borrow some bonds for a few days. It was some time in September, or early last fall. I loaned him four one hundred dollar bonds.

Q. State what your conversation was in regard to these bonds?

A. In getting the bonds, he said he wanted to send them to Gen. Pomeroy, who had assisted him and who he wanted to pay. He, Pomeroy, could sell the bonds and take his pay out of them. He said he would repay them in a few days. I let him have the bonds under these considerations. About two weeks after he called again, and wished me to let him take the bonds to Washington and sell them. I consented for him to take them on.

Q. What, if anything, was said by him of the price they could be sold for?

A. He stated, at the time I consented to let him take them to Washington, he had no doubt they could be sold for seventy cents.

Q. Did he state to whom they could be sold for seventy cents?

A. I understood to the Interior Department, for the Indians, in some shape. I did not make particular inquiry.

Q. Did he state anything, if so, what, about a communication from Pomeroy, to that effect?

A. I understood him that he had received a letter from General Pomeroy, to the effect that they could be disposed of for seventy cents, in that way.

Q. How long, prior to Dr. Robinson leaving for Washington, did you hear this conversation?

A. I judge it was a couple of weeks before. I could not state exactly. I took no minutes.

Q. What else happened about those bonds, if anything, in regard to your getting your pay for them?

A. On his return from Washington, I called on him. He told me that Mr. Stevens had sold them, and he did not know exactly what he got for them; that, in a day or two, he, Stevens, would be here, and he, Robinson, would then settle the matter. When Mr. Stevens came, Dr. Robinson asked me what he should give me. I told him whatever he could afford. He gave me a letter to Mr. Stevens, and he, Stevens, paid me two hundred dollars.

Q. The bonds were all for \$100 each, were they?

A. Yes sir.

CROSS EXAMINED BY DEFENSE.

By Gov. Shannon.—Did you say Secretary Robinson gave you a letter to Mr. Stevens?

Witness.—I did.

Q. Where was Stevens?

A. In the Auditor's office.

By Dr. Robinson.—Did you say I gave you a check?

A. It was a letter or a line from you to Mr. Stevens, telling him to pay me \$200.

Q. It was a small piece of paper was it not?

A. Yes, sir.

Q. Did you read it?

A. I did not read it.

Q. Was it opened or sealed?

A. It was an open letter.

By Secretary Robinson.—Was it not an order?

A. I suppose that was the fact about it, as Mr. Stevens paid it.

Q. Please state how you was induced to believe it was an order to pay you a certain amount?

A. Because he paid me when I presented the paper.

Q. At the time the Secretary borrowed those bonds, was he not to return them or pay you what ever you considered a fair price?

A. The first time, when he borrowed them, I supposed he would return the bonds. The second time he called I understood he would sell the bonds.

Q. That was the time he was going to Washington, was it not?

A. Yes, sir.

Q. Was not the agreement to pay you a fair price?

A. Yes.

Q. When he came back he gave you the letter for an amount?

A. He did.

Q. Did you not express yourself as being satisfied?

A. I did not complain, I said I was satisfied with what ever he could afford.

Q. Have you ever complained since to Dr. Robinson?

A. I never complained to the Doctor, to my knowledge?

Examination of witness closed.

[L. C. WILMARTH'S TESTIMONY.]

Q. Where do [you] reside?

A. About a mile and a half from Topeka.

Q. Did you have any transaction with Dr. Robinson in regard to bonds of the State, last fall?

A. Think I have had several in the course of a year.

Q. Was it prior to his going to Washington?

A. Yes, sir.

Q. What was it?

A. I remember one transaction about last September, near the first. Robinson wanted to borrow one thousand dollars in bonds of me; I had only four hundred dollars by me, which I let him have.

Q. What conversation did you have at that time, in relation to those bonds?

A. Nothing particular. He (Robinson) stated that he wanted some bonds to make a trade. He wanted them to use, and would return them.

Q. What conversation occurred after that?

A. He came to me on Saturday night, and said he was going to Washington and wanted to borrow my scrip and bonds. I told him I was using them. He said he would buy, he would like to get what I had, as he could sell; having made a trade—said he was going to start for Washington in the morning. I gave him an order for some scrip I had in the Auditor's office. He did not draw this on account of some informality in the order; he asked me if he paid me for those bonds in ten days, would that do. I replied yes. He asked me if he would send a draft within a month, if it would answer. I told him no.

Q. Was there anything said by him as to the quarter in which he expected to sell the bonds?

A. I can't say there was. I think he said Mr. Pomeroy had some money he wished to invest in Kansas bonds.

CROSS EXAMINATION BY DEFENSE.

Mr. Stanton.—Was that before he went to Washington?

A. Yes, he told me he would leave on the next Sunday, but did not leave till Monday.

Q. How long was it before he went to Washington that he borrowed these bonds?

A. It was some time in September—I don't recollect—know that he was gone three months.

Q. Do you know what time he left for Washington?

A. No, sir.

Q. At the time he got these bonds, was there anything said about his going to Washington?

A. No, sir.

Q. He told you he had made a trade, did he?

A. Yes, sir.

Q. Had you been in the habit of exchanging scrip and bonds with him?

A. Yes, sir, often.

Q. When he called on you prior to his going to Washington, did he say he wanted some bonds as he could sell them?

A. Yes, sir.

Q. Did you get the idea that he wanted to dispose of them to Pomeroy?

A. He did not make such a statement; I made no inquiries. I think he said that General Pomeroy would like to invest in Kansas bonds.

Q. Did he ever get scrip but once?

A. Yes, he did. Through some informality he only got \$30 of the scrip at the time I gave him the order. I drew the balance myself.

Q. Did he not give you a receipt for those bonds?

A. He did.

Q. What did you do with that receipt?

A. I turned the receipt over to Mr. Dutton. About one week before Robinson came home, Mr. Dutton came to me and said he would like to buy some bonds. I sold him some, among others, this receipt of Robinson's.

Q. Did you have anything to do with that receipt afterwards?

A. I did not suppose I ever would have; but did eventually.

Q. What did you get from Dutton for the receipt and bonds?

A. I sold bonds to Mr. Dutton for fifty dollars, but the receipt calling for four one hundred dollar bonds, was sold for one hundred and seventy-five dollars—less than the others.

Q. Do you know what Robinson paid Mr. Dutton?

A. I told Dr. Robinson I had given the receipt to Dutton; afterwards Dutton said he could not collect it. Dutton wanted me to take the receipt and refund him the money. I went to Robinson and he said he would buy the bonds for me. I told him Dutton would take scrip. Dutton went to him and he paid Dutton in scrip.

Q. Do you know what the scrip was turned over to Dutton for? that is, I mean how much?

A. The amount as I understood it, was he returned Mr. Dutton four hundred dollars in scrip, for the four hundred dollars of bonds.

EXAMINATION IN CHIEF RESUMED.

By Attorney General.—Was there anything said in regard to keeping quiet about the sale of the bonds?

A. I think not.

Dr. E. Teft re-called on part of the State.

By Attorney General.—Were you requested to keep quiet in regard to the sale of these bonds?

A. He made the remark he did not wish anything said about it; particularly that Mr. Pomeroy's having anything to do with it.

[J. F. CUMMINGS' TESTIMONY.]

J. F. Cummings re-called on the part of the State.

Attorney General.—I believe you have had some connection with the State Printing, have you not?

A. To some extent.

Q. Do you know anything of the award of the contract for the State Printing for 1861?

A. Yes, sir.

Q. Do you know anything of the contract awarded to Messrs. Trask and Lowman?

A. Not directly.

Q. Do not know from any conversation with Dr. Robinson?

A. I don't know of any conversation I had with the Secretary of State, in regard to that printing.

Q. Did you have any conversation with Dr. Robinson in regard to it at that time?

A. Not at that time.

Q. Do you know anything about the bond of Trask and Lowman being filed?

A. I do not of my own personal knowledge.

Q. Did you ever see a bond of their's in the Secretary's office?

A. I did not. I saw what purported to be a bond of Trask and Lowman.

By Gov. Shannon.—Did you read it?

A. I did not. I don't know if there was any.

Q. What was the indorsement?

A. Bond of Trask and Lowman.

Q. When did you see it?

A. In June, 1861.

Q. When was the contract made?

A. In June, 1861.

Q. Do you know of Trask and Lowman's having made a bid ?

A. I never saw any such bid.

Q. Do you know from any conversation with Robinson ?

A. No, only through Mr. Trask.

Q. Was Secretary Robinson present at that conversation ?

A. There was some conversation in his office with other gentlemen. I don't know if Robinson took part in it—part of the time Robinson was there.

Q. Who were the other gentlemen ?

A. Mr. Ross and Mr. Weir.

Q. What was the conversation, was it in regard to the bond—while you and Secretary Robinson were there ?

A. It was about getting Trask to withdraw a bond he had filed or was about to file.

Q. What was said while Robinson was there ?

A. I don't know.

Q. What bond was that ?

A. For the legislative printing.

Q. What year ?

A. 1861.

Q. Did the conversation extend to Bond and bid, or bond alone ?

A. To both bond and bid.

Q. Was it before or after you saw it on Robinson's table ?

A. I cannot say.

Q. Was it about that time ?

A. Same day.

Q. Was the conversation about withdrawing the bond and bids ?

Objected to by defense.

Attorney General.—I will ask the question in a different way.

Q. Was that conversation in the Secretary's presence ?

A. I cannot tell.

Q. Was there any conversation while the Secretary was present ?

A. The Secretary was in the office part of the time while Trask, Ross and myself were there.

Q. How long was the Secretary out in the forenoon ?

A. I cannot say.

Q. Were you in more than once?

A. I was in several times at short intervals.

Q. At any one of the times was the Secretary present?

A. He was.

Q. Was he the first?

A. I cannot say.

Q. Was he the second?

A. I do not know which time.

Q. Was he not every time you were there?

A. I think not.

Q. What was the subject of your conversation?

A. Our conversation was about the printing bid of Trask & Lowman.

Q. Was it each time?

A. Principally.

Q. Was it each time that morning in relation to that matter?

A. I think so.

Q. What bond and bid were referred to in that conversation?

A. The bond and bid of Trask & Lowman of 1861.

Q. Did you see that bond after that time?

A. I did not. I heard Mr. Trask say, (putting his hand in his pocket,) "I have it here."

Q. About what time in June was that?

A. During the first letting by contract of Legislative printing under the State law.

Q. In that conversation, will you state what bond and bid was mentioned?

A. The bond and bid of Trask & Lowman for Legislative printing for 1861.

Q. Where were they at that time?

A. Part of the time they were in Trask's pocket, and a portion of the time in Secretary's office—during that day I mean.

Q. Do you know of your own knowledge anything of the withdrawal of that bond—I mean of your own knowledge or from any conversation with Secretary Robinson?

A. No, sir.

Q. What action did you take subsequent, predicated on that withdrawal?

A. We filed our bond.

Q. Was Trask & Lowman's bid higher or lower than your's and Ross's?

A. I think it was lower.

Q. Did you know what the amount of Trask's bid was?

A. Yes sir, I did.

Q. From what source did you learn the amount of Trask's bid?

A. I learned it from Trask himself.

Q. Had you a bid in the Secretary's office at that time?

A. I had.

Q. Was it for printing?

A. Yes, sir.

Q. What was done with that bid?

A. After the withdrawal of Trask's, or when he refused to file, I was notified that I should file my bonds.

Q. Did you so file?

A. Yes.

Q. Was that the only bid you filed?

A. It was an amended bid.

Q. What was done with the original bid?

A. By the consent of the Secretary, it was withdrawn; he thought I had a right to do it.

Q. By whose consent?

A. By Secretary Robinson's.

Q. In what particular did your last bid differ from the original?

A. Only that it was larger.

Q. What action was had on the bond or the bid of Trask & Lowman?

A. I can only tell what I heard from other parties.

Q. Was there any action had on it?

A. I cannot tell of my own personal knowledge.

Q. Did you hear from Secretary Robinson?

A. Not from the Secretary.

Cross examined by defense.

Gov. Shannon.—You say you saw the paper in the Secretary's office?

A. I believe it was.

Q. Did you examine the paper yourself?

A. I did not.

Q. Did you know any thing of its contents?

A. No, sir.

Q. Was there any other indorsement on it?

A. No, Sir.

Q. Do you know if the Secretary approved of it or not?

A. I do not.

Q. At the time you saw the paper, who was there, Weir or Robinson?

A. I cannot say; both of them may have been there.

Q. At the time this bond was seen by you, how long was it before the adjournment of the Legislature?

A. My impression is that it was after.

Q. When was that?

A. I am pretty certain it was some time in June, near the adjournment of the Legislature or after.

Q. Was not the printing almost done for which Trask & Lowman bid?

A. The printing was about finished at the time the bid was put in.

Q. Who had done it?

A. Mr. Ross and myself.

Q. Who solicited Mr. Trask to withdraw the bond?

A. I did, sir.

Q. Who else?

A. I cannot say.

Q. You say, Ross and yourself bid the printing, were you concerned together?

A. Yes, but he did the most; there was not much division.

Q. Do you know, at the time he withdrew the bond, if his bid had been acted upon by the Secretary?

A. No sir, I do not.

Q. At the time you amended your bid, had the Secretary acted on your first bid?

A. The time had not expired for receiving proposals,

Q. Had the Auditor, Treasurer or Secretary acted on your bid, or not?

A. I believe not. I do not see how it could be done under the law.

Q. Did you withdraw your first bid?

A. I did.

Q. Before you amended it?

A. I did.

Q. Did you receive notice that your amended bid was accepted?

A. I did.

Q. Did you file your bond?

A. I filed my bond with the Secretary, and it was approved by him.

EXAMINATION IN CHIEF RESUMED.

By Attorney General.—What was your bid for?

A. My bid was for the legislative printing of 1861. It embraced the printing done, and what had to be done.

CROSS EXAMINATION BY DEFENSE RESUMED.

By Gov. Shannon.—Did you, or any one else, to your knowledge, consult with Secretary Robinson about withdrawing Trask and Lowman's bid?

A. I did not, or any other parties to my knowledge.

EXAMINATION IN CHIEF RESUMED.

By Attorney General.—What became of your original bid?

A. I don't remember whether it was amended or destroyed.

Q. What is your best recollection in regard to the matter?

A. I don't know.

Q. Did you ever say any thing to Secretary Robinson or Weir about it?

A. I did not.

Q. Have you no recollection about conversing with him at any time on that subject?

A. I don't recollect.

Q. You say you have no recollection?

A. No recollection.

Q. Are you acquainted with Trask and Lowman?

A. I am.

Q. What is their pecuniary responsibility?

A. I think they are good, as far as I know.

CROSS EXAMINATION RESUMED.

Gov. Shannon.—Will you state what you mean when you say filed?

A. I mean left—deposited.

EXAMINATION IN CHIEF RESUMED.

Attorney General.—Do you recollect of there being any other writing on the bond, except what you have stated?

A. I do not.

By the President.—Are you acquainted with the hand writing of John W. Robinson?

A. I am.

Q. Whose writing was on the bond?

A. The broad style of Trask.

Q. How long after did you file your amended bid?

A. I filed my amended bid the day before.

Q. From whom did you receive the note?

A. From Secretary of State.

Q. What day?

A. Probably the same day of the conversation alluded to.

Q. Did you know, at the time you put in your amended bid, the bond of Trask and Lowman would be withdrawn?

A. There was no bond of Trask and Lowman. Mr. Trask had not come up.

CROSS EXAMINATION RESUMED BY DEFENSE.

Gov. Stanton.—At the time you changed your bid, you say Trask had not arrived with his bond?

A. He had not.

Attorney General.—If it please the Court, I have sent for some papers, in the Secretary's office. I suppose they can be found in ten minutes, if the Court will take a recess for that time.

Senate took recess for fifteen minutes.

The time having expired, the Senate was called to order.

Attorney General.—I understand, may it please the Court, the defense show their inability to produce these papers, and I propose to prove, by Cummings, their contents.

Gov. Stanton.—Mr. President: We wish to state that these papers were called for by a committee of the Legislature. They have never been returned, and cannot be found.

Attorney General.—We propose to prove their contents, as they are not to be found where they should legally be. I do not wish to cast any reflection, after the statement made by Robinson.

J. F. Cummings recalled.

Attorney General.—State the amount of your first bid.

A. Fifty-five cents per thousand ems.

Q. State the amount of your second bid.

A. One dollar per thousand ems.

Q. Which bid did you get the contract on?

A. On the second or amended bid.

Attorney General.—I wish this paper made a part of the record.

[COPY.]

In the matter of the Impeachment of John W. Robinson or his attorneys :

You are hereby notified to procure, on this trial, the bid of Cummings for the legislative printing of 1861; the bond filed by Trask and Lowman, in your office, in regard to a portion of the State printing (filed in June, 1861), and the bond of Trask and Lowman, for the legislative printing, filed in June, 1861, in your office.

STINSON,

June 8, 1862.

For the Managers.

Attorney for defense accepted service on the above, by indorsing.

Attorney General—I now propose to put in evidence Public Documents, 1862. I also offer House and Senate Journals, 1861; especially page four hundred and eighty, line commencing "Also for."

EXAMINATION IN BRIEF RESUMED.

J. F. Cummings recalled.

Attorney General.—Do you know the amount of Trask and Lowman's bid?

A. It was sixty-five cents per thousand ems.

Attorney General.—Mr. President: We now propose to rest our case, with the understanding with the attorneys for the defense, that, at any time during the proceedings, we will be allowed to recall Mr. Hillyer, and to call Mr. Collamore.

Shannon.—We will agree to that.

Attorney General.—Then, if the Court please, on the part of the managers, with this understanding, we now rest our case.

Mr. President.—I believe Mr. Case was to open the argument on part of the defense. Is he ready?

Mr. Ingalls.—Mr. President: It is not my desire to interfere with any arrangement counsel may think proper to make in their conduct of this case; but the course pursued by the person mentioned, has been in such open and flagrant contempt of this body, that he must, in justice to ourselves, be excluded from any further participation in these proceedings. I am informed, and am prepared to fortify my statements, by the affidavits of eminently respectable gentlemen, members of the bar in this city, that Mr. Case has publicly declared, on the street corners, in the halls and other places of common resort, both before and during the progress of the trial, that this Senate is a jury packed against his clients, and that there is but one Senator whose verdict cannot be bought with money. No one can be more indifferent than myself to the vulgar assaults of calumny and slander. Personally, I would pass them by as unworthy of the slightest consideration; but this man appears here, in an official capacity, and we are compelled to notice the contempt of which he has been guilty. In insulting us, he insults the great State which we represent, and whose honor we are bound to maintain. He has no further claim to the indulgence of a tribunal whose integrity he has impeached, whose courtesy he has abused, and whose protection he has forfeited. Suitable means should be taken to prevent his further appearance; and, unless he voluntarily withdraws, I shall make a motion that he be refused a hearing by this body.

Mr. Stanton.—Mr. President: I beg leave to say to yourself and Senate that I have no knowledge of such statements being made, and am extremely sorry that anything of this kind should occur. No feeling or suspicion would have induced me to make or concur in such remarks. No shadow of suspicion of this honorable body has ever crossed my mind. I am not able to say if such is the case

or not. I think, at least, Mr. Case should be present when such charges are made against him.

Senator Ingalls.—I did not make a motion but merely a suggestion, in order that counsel themselves might reach some satisfactory arrangement.

Judge Smith.—We cannot now come to any conclusion. The trouble about the matter is to make up our minds without knowledge. Mr. Case not being here, so far as we are concerned we are satisfied, and we will conduct the case as it ought to be conducted, and we rest assured the Senate will do justice. We went into the trial with that conviction, and have it still.

AFTERNOON SESSION.

Monday, June 9th, 1862, 2 o'clock, P. M.

Senate met pursuant to adjournment,

President in the chair.

Roll called.

Quorum present.

Absentees—Messrs. Curtis, Denman, Essick, Hoffman, Lynde, Holliday, McDowell and Morrow.

Mr. Case.—Mr. President and Gentlemen of the Senate: I understand there is a feeling against me occasioned by remarks said to have been uttered by myself outside of this Court, charging that there was but one honest man in the Senate. No candid man would be warranted in making assertions of that character in reference to this respectable body. Believing, from the remarks of Senators on this floor, that my continuing to appear as one of the attorneys of John W. Robinson, Secretary of State, will be used as an argument prejudicial to his defense and acquittal, I respectfully withdraw from the defense.

George S. Hillyer recalled.

Attorney General.—You were one of the board to pass on bids for State Printing, were you not?

A. I was.

Q. What knowledge have you of the bonds of Trask & Lowman that were filed in the Secretary's office in June last?

A. The printing board held a meeting and awarded a certain portion of the printing to Trask & Lowman. It was the Legislative bill printing. The Secretary notified them that they were the successful bidders, and they came forward in due time with their bond. Afterwards I called at the Secretary's office, he being absent, and discovered the bond of Trask & Lowman on his desk. I examined it, and expressed myself satisfied with it in the presence of Mr. Weir. I don't recollect any filing on the bond, and think there was not. Mr. Trask saw me the same day, and asked permission to withdraw their bond. I told him it could not be done with my consent. I called at the Secretary's office perhaps that evening or next morning, the Secretary was not in, and the bond was missing.

Q. In what capacity was Weir acting?

A. He was Clerk in the Secretary's office.

Cross examined by defense.

Gov. Shannon.—Did you at any time indorse your approval on that bond?

A. I did not.

Q. You merely said you were satisfied, did you?

A. Yes, sir.

Q. Was the Secretary not present?

A. He was not present either time I called.

Q. Did you ever inform the secretary?

A. No, sir.

Q. Did you at any time tell the Secretary you had approved of it?

A. I think not.

Q. Did he not know you had seen it?

A. No, sir; not till after the bond was abstracted.

Q. I mean before?

A. No, sir.

Q. When you called, it was upon the desk, and Weir was there, you said, I believe?

A. Yes, sir.

Q. It was in his custody, was it?

A. He was the only one in the office.

Q. The next day, when you asked for it, what did Weir say?

A. He stepped to the desk, turned over the papers, and said it was missing. He looked about among the papers and couldn't find anything of it.

Q. Can you state any information you had as to the condition of things in Washington, whether they wanted things kept as secret as possible or not?

A. Not particularly, I did not think it best, so far as I was concerned, to correspond and publish the facts in relation to the matter. Parties might take advantage of it.

Q. In your conversation with Robinson and others was there anything said about keeping it secret,—anything which rendered it necessary?

A. I had no conversation with either Senator on the matter.

Q. Do you know if any bonds had been offered at as low a price as thirty-five or forty cents?

A. Not of my own knowledge. I have been so informed.

Q. What was your information?

A. As you state, at a low figure.

Q. Was there any consultation between you and Robinson as to the effect that would have on our negotiations?

A. When I first heard of it, I thought it would be no use to try to sell.

Q. Don't you know that some bonds were offered to the Secretary at thirty or forty cents?

Attorney General.—Witness must speak of his own knowledge.

Mr. Hillyer.—I received information that bonds were offered at a low figure—about fifty cents.

Q. Did you suppose that those offers would affect your negotiations, and did it influence you in your action and cause you to be secret?

Attorney General.—I object to the question. My reasons are because I wish the objection recorded, that the Senate may bear

them in mind. In my closing argument, I shall sift the valid from the invalid testimony.

A. That was one consideration, among others, which induced them to keep the negotiation secret.

Examination in chief resumed.

Attorney General.—Did you ever go to the Interior Department to learn if the negotiations could be effected?

A. I did not.

By the President—Mr. Hillyer, at what price was the printing let?

A. I do not recollect the figures.

Q. What time did the board meet?

A. I cannot state that either.

Q. How long after the printing was let, did the board have another meeting?

A. We had a meeting to examine bonds after the printing was let. There is a certain time fixed by law, in which the bonds are to be filed.

Q. You say the bond of Trask and Lowman was not to be found?

A. It was not.

Q. What action did you take upon it?

A. We took no action.

Q. When was the printing let to Cummings?

A. It was let at the same time that this printing was awarded to Trask and Lowman.

The Board of Managers here closed their case.

[ARGUMENT OF GEORGE W. SMITH.]

The case was now opened on the part of the defense, by the Hon. George W. Smith.

MR. PRESIDENT AND GENTLEMEN:

Very unexpectedly I find myself compelled to open this case for the defense. Fortunately, perhaps, for you who would have had to listen to it, I have been unable to prepare an argument. Our

position will be that, from the evidence already given, nothing criminal appears against the defendant. The trial of impeachment is, in this, like a trial for indictment: the intent of the person charged must govern the criminality of the act. So far, the State has not adduced a single point on which to base criminal proceedings. They may, perhaps, have made out a civil case—enough to warrant the State to proceed against their bonds, in order to recover the amount out of which the State claims to have been defrauded. This is the proper remedy.

We shall deny, from beginning to end, that you have shown anything for which our client should be convicted. There may be some things adduced in testimony, which will require explanation, and for this purpose we shall call our witnesses. As this case, and those of the other officers, have naturally created a strong feeling and bitter sentiment, in the minds of the people of the State; to stay this, and to satisfy this honorable body, we shall show that this respondent derived no pecuniary or other benefit from the transaction. No sane man will believe that a person will act corruptly, unless he intended to derive some benefit therefrom. We take this position, and declare that all the witnesses have failed, with the honorable Board of Managers and Attorney General to boot, to show that Dr. Robinson ever derived one cent from sale of these bonds. It is not to be believed, that a man would act corruptly without hoping to derive benefit therefrom. This our client has not done.

My duty will be to consider here what has been proved, on the part of the prosecution. At the commencement of these negotiations, how did our State credit stand? It was for sale on every street, at bankrupt prices. It is known to every member of this Senate, that the scrip could be purchased at fifty cents on the dollar at that time, while the State bonds were worth comparatively nothing. Dr. Robinson had in his possession a large amount of these bonds; he had purchased scrip at low figures, and his salary as Secretary of State had been paid in the same way, which amounts he had bonded. It appears also that he had borrowed some. Having information which lead him to believe they might be sold at Washington, he sent them to Senator Pomeroy to sell for him.

With that interest for the State which a faithful officer feels, Dr. Robinson went to Washington soon after. On arrival there, he found that other parties in Kansas had learned that the State bonds might possibly be sold there, and had sent theirs on to Mr.

Pomeroy. Hence arose the desire of secrecy, and the purpose shown to keep the sale of the State bonds a perfect secret. We shall offer some evidence on this point. This will explain the use of the words "keep mum," and keep quiet," found in the letters, given as testimony here, from Dr. Robinson to Weir.

We shall show how this respondent, with Mr. Hillyer, the Auditor, remained in Washington for three months, at their own expense, while the bond transaction was maturing; that Dr. Robinson, for two months, refused to take sixty cents on the dollar, and that he only acquiesced when advised that no sale could be effected elsewhere, if the State officers failed to effect one to the Government. Under the advice of Senator Pomeroy, after these bonds had been twice withdrawn from the hands of Mr. Stevens, Dr. Robinson agreed to take sixty per centum for the bonds. In so doing, they may have mistaken the law; but that violation will not, of itself, show a criminal purpose—an intent to defraud and cheat the State. The evidence shows that the Auditor, Mr. Hillyer, as well as Dr. Robinson, were of the opinion that the law allowed them to negotiate fifty thousand dollars of the hundred and fifty thousand seven per cent. bonds, at any price they could be obtained. Make a calculation on this basis, originally marked out—fifty thousand dollars at forty per centum, and the remainder at seventy per centum—and it will be seen that, under this view, the final sale at sixty cents was supposed to be a good bargain. And to this they were advised by one of our Senators: a gentleman who, from his position at the National Capital, would, without doubt, be entitled to advise in such a matter. This understanding of the law may be wrong; but such a mistake does not prove criminality, on the part of this respondent, and he cannot, therefore, be convicted on the impeachment.

I come to the war bonds. It has been shown that Secretary Robinson had nothing to do with them but countersigning them. No one accuses him of being connected with their sale in any way. The countersigning of them is a merely ministerial duty, which he could not have avoided. In this he is not even guilty of a civil offense. He is charged, here in this Court, with a misdemeanor for the act countersigning the extra bonds, so called. The impeachment is null and void. The Secretary could not have avoided the countersigning, and had he refused, a writ of *mandamus* could have compelled him to do the work.

In relation to the Article of Impeachment, charging a misdemeanor against Dr. Robinson, on account of the payment of the Wabaunsee Patriot's account for publishing the banking law, there is not, gentlemen, one tittle of evidence been adduced to show that the Secretary knew anything of the transaction. The certificate to the account of Cummings was signed by his clerk. A principal would be liable, for money lost, to the State by a fraudulent certificate, but could be charged with criminality from the transaction. But was there anything wrong in it? What was the purpose of the Legislature, in ordering the publication of the banking law? Was it not that the people might be able to examine it? The people of Wabaunsee county were as much interested in the matter, as the more favored portions of the State, where newspapers abounded. It is in evidence that this paper was published at Wabaunsee, and circulated from one to two hundred copies in the county. Was it not a legitimate enterprise to start it for the purpose of informing the people of that county, in relation to the banking law? The publication was made, the paper ceased some weeks after, for reasons given by the only witness produced by the State, and the proprietor made affidavit of the publication of this banking law. It was certified to by Mr. Weir, and if you could show that the act was wrong and that Secretary Robinson was responsible for what his clerk done, you must show that his intention was to defraud the State, before you can impeach him before this Court.

For the other charge, in relation to the abstraction of the bond of Trask and Lowman from the office of the Secretary, the prosecution itself does not dwell upon that count, and the evidence is so meagre that the defense need do no more than allude to the fact that the House of Representatives has failed entirely to support the averments contained in this article.

Mr. President and Senators: I have thus briefly and imperfectly marked out the course which the defense will pursue in this case. You are already wearied, and I will not further exhaust your patience by endeavoring to speak longer. I had no time for preparation. Of this fact you are fully aware, and are, doubtless, pleased by it. These men are officers of your State. It is right they be held strictly accountable for their acts. No one is more willing than myself to do this, if they are guilty. Had I been a member of the House of Representatives, I should advised the passage of a resolu-

tion, bringing suit in the courts, on their bonds, to recover the amount out of which it is claimed the State was defrauded. This was the remedy then and is now: and unless you have evidence of criminal intent on the part of this respondent, it is your solemn duty to acquit. Even the doubt must inure to the benefit of the accused. We charge you to weigh well your responsibility.

[R. S. STEVENS' TESTIMONY.]

Testimony for the defense.

Hon. Robert S. Stevens sworn on part of the defense.

By Mr. Stanton.—Mr. Stevens will you proceed and state all the transactions about the bonds, which you had with Secretary Robinson and all the State officers.

Mr. Stevens.—In order to state understandingly, I shall be compelled to go back in point of time, before having any thing to do with the Secretary and Auditor. I left Kansas in the latter part of July, 1861, to go to the city of Washington, and I think on the 30th or 31st of July, at Buffalo, I met Mr. Dutton, the State Treasurer, I bought of him a certain portion of the War Bonds. He had with him fifty-eight seven per cent. bonds, amounting to twenty-nine thousand dollars, which he told me he had been East, trying to sell, or on his way had endeavored to sell, and which seven per cent. bonds he had received from the Executive officers of the State, and was authorized to sell at seventy cents., at which price he offered them to me. I did not wish to purchase, but if he was willing, would take the bonds—try and sell [them] for seventy cents, or return them if not sold. I gave him a receipt which is in evidence, and he gave me the bonds. I went to Washington and sold twenty-six thousand dollars of the War Bonds to the Interior Department. I also, about that time, made a proposition to the Secretary of the Interior to sell him one hundred thousand dollars of seven per cent. Kansas bonds, which was not accepted. I started on my return to Kansas, coming by the way of Dayton, Ohio, bringing the twenty-nine thousand dollars of seven per cent. bonds with me, to return, and take up my receipt. At Dayton, I had an interview with R. G. Corwin, who stated, that if I would modify my proposition to the Secretary of the Interior, as to price, he thought a sale could be effected. I wrote a new proposition to the

Secretary of the Interior; at the same time I gave the bonds to Mr. Corwin, taking his receipt therefor, together with the proposition, a copy of which, I now have. I then returned to Kansas, arriving here early in October. My desire was, to purchase bonds enough, with what I owned, to amount to one hundred thousand dollars, in case my proposition was accepted. Having understood that possibly Messrs. Clark and Stone's authority to sell the seven per cent. bonds had not expired. I submitted a proposition to them to purchase a certain amount at forty cents. I received a reply, declining to accept this offer, for two reasons, which were: First, a doubt of their authority to sell—and second, as to the propriety of selling at so low a figure, if they had the authority. The reply was from Gen. Stone. About the 15th of October, I came to Topeka, and endeavored to purchase from fifty to seventy-five thousand dollars of bonds from State officers, authorized to sell. Two of the officers, the Auditor and Secretary of State, thought they could sell fifty thousand, at any rate they thought expedient, and before leaving, a statement was handed me, in writing, signed, (I think) by the Auditor and Secretary, saying they would sell me fifty thousand at forty cents, and twenty-five thousand at seventy cents. This arrangement was not perfected;—sale or purchase was not made for the reason, that on presenting this paper to the Governor, he would not sign it—and I would not purchase without joint action of the Board. Before leaving, however, it was agreed for me to take on to Washington, bonds enough of the \$500 bonds to make up fifty thousand dollars—\$21,000—and all the \$100 bonds they thought would not be needed to take up scrip. They delivered to me twenty-one thousand dollars of the \$500 denomination, and a portion of the \$100 bonds—such as were complete—a portion in the book were not signed by the Governor. They delivered the book to me (containing the unsigned bonds,) which I took to Lawrence, to get the Governor's signature thereto. He signed the bonds, and I think I returned the book to the Auditor, by express. I was here at Topeka two or three days, and in that time the Governor went to Lawrence, which necessitated me to take the book of bonds to him. Such bonds as were delivered to me, I did up in a package, and sent to Washington by Dr. Woodward, and to deliver to Corwin and place with my others, to be paid for by the Secretary of the Interior, if my proposition was accepted. Immediately after delivering them to Dr. W. I started to Southern Kansas, to attend to some business.

I learned subsequently, that S. O. Smith met Dr. Woodward on the way from Lawrence to Leavenworth, and he having business at Washington, took the bonds, and the Dr. came back to Lawrence. Shortly after, I heard that the Auditor and Secretary had gone, or were going to Washington, and in a short time I received a letter from them, referring to the bonds, and desiring me to come on. I returned a reply, stating that when my business called me to Washington I should come. If they had any business there, to attend to it. I received one or two more letters and a telegram, to which I replied to the same effect. I left Kansas on the 23rd or 24th of November, to go East, and arrived in Washington on the last day of November—on Saturday night; I saw the Auditor and Secretary on Sunday, and on Monday saw Mr. Corwin, who was assisting me in the sale. He informed me that it was difficult to make the sale. He suggested to me the seeing of the State officers, and obtaining their authority for me to act as State agent, accounting to the State for a certain amount, and taking all over, for compensation. Shortly after that interview with Mr. Corwin, we went to Mr. Pomeroy's room, and had an interview with him. On leaving his room, the Secretary, Auditor and myself went into an office, and I drew up a paper, or power of attorney, which they signed. It was signed by the Auditor, Secretary and Governor. The Secretary signed the Governor's name. I don't know what his authority was. He said he was authorized to so sign. There was nothing said by us as to the price I should pay the State for bonds. I then made a proposition to the Secretary of the Interior to sell them for eighty-five cents. The proposition was submitted by me to the Secretary of the Interior. He informed me that he had submitted it to the President, he being the only person authorized to act under the treaties. The President declined to authorize the investment. The Secretary said that would probably end the negotiations. I asked him if he had any objection to my getting the Congressional Delegation to call upon the President. He replied that he had not. I called on Mr. Pomeroy, and asked him to get the rest of the delegation and go and see the President. He said that he would. He informed me a few days afterwards, that they all went to the President's House and waited till eleven o'clock, without obtaining an audience. Gen. Lane, having business before the Military Committee, of which he was a member, *could* stay no longer. Mr. Conway also left without seeing the President, having business at

the House of Representatives. Gen. Pomeroy remained, saw the President and brought the matter before him. The President expressed his surprise at the bonds being those of the State. He supposed them to be those of the Leavenworth and Pawnee railroad Company—and authorized him (Mr. P.) to say to the Secretary of the Interior, that if he thought best to make the investment in that way, to do so. It was thought best to get the written request of the *united* Kansas Congressional Delegation, to the President. Mr. Corwin drafted and handed me the letter, dated December 16th, addressed to the President. I copied it just as it read then, and reads now, saving the signatures. I went to the Capital, to the Senate Chamber, for the purpose of getting it signed. The Auditor and Secretary went with me. I called Mr. Pomeroy to the main entrance—asked him to read and sign it if willing, and hand it to Gen. Lane to sign. I remained at the door. Lane came out with the paper in his hand, remarking, as he handed it to me, “Bob, I’ve not signed this letter, but you can come to my room to-morrow morning, and I will see you about it.” I inquired if he could not decide that night, as I wanted to file the papers in the morning. He said, “you can come as early as you want to, and you can see me then.” I then went to the Avenue House, where I boarded. In the morning I saw Lane, Reynolds and other gentlemen conversing. I called Reynolds and handed him the paper, asking him to get Lane to sign it. Afterwards I saw nothing more of either Lane or Reynolds till after 10 o’clock, A. M. Mr. Reynolds came into the Hall with Mr. Niles, an attorney of Washington, and went up to a room where Lane was. Niles went away soon after. I saw Reynolds shortly after, and asked him to see if Lane had signed that paper, and to bring it to me, either with or without his signature, as I wanted it. Reynolds brought me the paper, and said that Lane said he would see about it the next morning. The next morning I handed the paper to the Secretary and Auditor, and asked them to try and get Lane to sign it. They brought back the paper without his signature. Some days prior I gave it to Secretary Robinson, and asked him to get Conway to sign it. He returned it with Conway’s signature; Conway signed it leaving a space below Pomeroy’s between the two signatures for Lane’s signature. After the paper was returned without Lane’s signature, I took it to the Interior Department, stating to the Secretary that I could not get Lane’s signature, and if the negotiation could not be made without it, I

would let the matter drop. He then told me it was not necessary, and I filed the paper, and on the 19th of December, I entered into a contract with the Secretary of the Interior, a copy of which is in evidence. I think, a day or two before this, I told the officer to decide as to the price I was to account for to them if the sale was made. They said seventy cents. I told them I would not pay over sixty cents. We conversed about it, and one of them (I do not remember which) proposed sixty-five cents, which I declined. We then returned to our hotels. A short time after, on the same day, Mr. Hillyer came to my room and said that the Secretary would not take sixty cents. I replied, "very well, let the trade drop then," and thereupon he left, with the understanding that the negotiations were ended. That evening they came to my room, and said that they had concluded to take sixty cents. I drew a contract, allowing me all I could get over sixty cents. After that contract between the Secretary of the Interior and myself had been made, I understood that Gen. Lane had been there and protested against my carrying the money to Kansas, stating in substance what is in the deposition of the Secretary of the Interior, that he, (Lane) expected to be a candidate for the Senate before the State Legislature—that he had a majority of one in the State Senate, and if I had the money I would buy that one up and defeat him, (Lane.) After that contract was made, the same day, I think, Hillyer came and said that Lane was opposing my having anything to do with it, and suggested that somebody else should carry the money to Kansas. Hillyer appeared favorable to this, whereupon I delivered the bonds to him, and took my receipt, and told him to manage the bond matter himself. Hillyer disclaimed any idea of interference, saying that he was only stating what had been said to him, and the matter was fixed as before. After it was proposed to get the Congressional Delegation to call upon the President. I went to see Reynolds, whom I understood to be Lane's Secretary and business manager. I told him I was endeavoring to sell the Kansas State Bonds, and if he would take hold of the matter, I would give him a thousand dollars if successful. I had a conversation subsequent to that, with Reynolds, about Lane's going to see the President. Reynolds said that Lane would go. After the contract of December 19th, with the Secretary of the Interior was entered into, a few days before I got the money, Reynolds was in my room—said he was going away in a few days. He used the expression, "the old man will do what

he could, to help it through ;" meaning by " old man," Gen. Lane. I told him that I did not know that I had any need of his services. The contract was made, and the money would be paid in a few days. He (Reynolds) expressed himself ready to do what he could to close it up. I told him he must not expect pay, unless he rendered some service—telling him Lane had even refused to sign the letter to the President. Before leaving, he was in my room again, and said that Lane would sign the letter when presented, and he (Reynolds) asked me for a memorandum of the contract between him and myself, which I sat down and gave him. I went to the Interior Department—withdrew from the files, the letter to the President, and gave it to Mr. Hillyer, without Gen. Lane's signature. He went to Gen. Lane's room without me, and came out with the letter signed. I never went with them to Lane's room. I then took the letter to the Department and filed it. I was informed again that Gen. Lane had protested against my taking the money to Kansas. I went to Pomeroy, who said he was in the Secretary's office when Lane protested, but said Lane had agreed that he (Pomeroy) and Mr. Conway might select a person to bring the money. They requested me to bring it. I did so, and settled with the Treasurer at sixty cents. I never informed the Auditor and Secretary what I got, or what proposition I made to the Secretary of the Interior.

Mr. Stanton.—What amount of bonds were delivered to you ?

Witness.—Eighty-seven thousand two hundred dollars.

Q. What amount of bonds did you get paid for ?

A. Fifty-six thousand two hundred dollars.

Q. What became of the balance ?

A. The remainder were left by me with the Secretary of the Interior.

Q. Did you pay, or agree to pay to the Auditor or Secretary, anything ?

A. Not one cent, sir.

Q. Was there any understanding between you, expressed or implied ?

A. Not any, sir.

Q. Was there any understanding between you and the Governor, Auditor or Secretary, or either of them, when you took the bonds ?

A. I did not take them, except as stated. I left twenty-nine thousand dollars of the bonds at Washington.

Q. What understanding was there between you and the State officers, when you took the bonds from them?

A. The understanding was, that I should see if I could sell them, and account to the State. My reasons for answering their letters as I did, were that I heard they had gone to Washington with a view to effect the sale themselves, they having had letters from Washington.

Q. Was it in the power of these gentlemen to sell the bonds themselves?

A. I think not, at that time. This is simply an opinion.

Q. Who was this Corwin, you speak of?

A. Robert G. Corwin, of Dayton, Ohio, attorney at law, and claim agent at Washington, doing business with the War and Interior Departments.

Q. What is the relation between him and the Secretary of the Interior?

A. There is some relationship existing on their wives' side, I really cannot tell how close.

Q. What circumstances induced you to get Mr. Corwin to assist you?

A. I had engaged Mr. Corwin in other negotiations. He is known as a successful operator, so I interested him in this.

Q. At what stage of the negotiation did these gentlemen give you the contract to receive all over sixty cents?

A. One or two days before I entered into the contract with the Secretary of the Interior.

Q. Was it after the President had declined the proposition?

A. It was.

Q. What was the value of these bonds in the New York market?

A. They had no established value.

Q. What value in Kansas or elsewhere?

A. To my knowledge, there were no bonds selling—only for the redemption of scrip—which cost from forty to sixty cents on the dollar—mostly forty and fifty. Seventy dollars in scrip would draw a hundred dollar bond. This would make the average value of bonds from twenty-eight to thirty-five cents.

Q. Did you buy any bonds?

A. I bought several thousand dollars in bonds.

Q. What was the average cost of the bonds you bought?

A. I bought scrip at forty to sixty cents. I paid higher for some. The market value of scrip was about fifty cents.

Q. Which one of the State officers was unwilling to sign the first paper?

A. The Governor, sir.

Q. Did you say that he refused?

A. I did.

Q. Was that fact communicated to the Secretary and Auditor?

A. Not by me. I simply told them that I did not desire to make the trade.

Q. Where was the Governor when you presented that paper to him?

A. I could not undertake to state.

Q. Was he here or at Lawrence?

A. I cannot tell.

Q. At the time the arrangement was made, do you know if they made an estimate as to the amount they would receive for the bonds?

A. They did, as a reason for consenting to my proposition.

Q. What was their estimate?

A. Fifty thousand at forty cents, thirty-seven thousand two hundred at seventy cents. They concluded that the sale at sixty cents was the better way.

Q. At any time during the negotiation, did you, or any body else, communicate the fact that they must keep quiet?

A. I frequently told them that if they expected me to succeed, they must keep the matter secret.

Q. What were your reasons?

A. Mr. Corwin, and afterwards the Commissioner of Indian Affairs, told me the fact was known in Kansas, that I had sold war bonds, and had offered for sale seven per cents. The commissioner said that when he was in Kansas in October, he had had offered him thirty thousand dollars of bonds, at from forty-eight to fifty-six cents; he was opposed to purchasing State bonds, especially these, because had had others offered him at so much lower rates.

Q. Did you communicate this to the Auditor and Secretary?

A. I did.

Q. Did you have intercourse with Pomeroy, pending these negotiations?

A. I saw him frequently.

Q. Do you know if bonds were sent to Pomeroy from Kansas?

A. He told me that some had been sent to him; that one thousand dollars of bonds, belonging to Weir, had been handed by him to Mr. Hillyer.

Q. Did he complain of it?

A. I do not think I ever heard him complain.

Q. Did he caution the Auditor and Secretary against having bonds sent to him?

A. I don't remember.

Q. How many interviews did you have with Lane before making the contract with the Interior Department?

A. I never had any talk with him on the bond subject, except what I have reported as occurring at the door of the Senate Chamber. I went once to Lane's room alone, on a different matter, at Lane's request, and met him once at Willards', in the office.

Q. Was it at the door of the Senate Chamber he handed you the letter?

A. Yes, sir.

Q. Did he read it?

A. He did not say anything about it.

Q. Did you try to conceal it from Lane that you were trying to negotiate with the Interior Department?

A. I took no pains to conceal or publish. The fact was known in Washington.

Q. Was that letter complete when you handed it to Pomeroy?

A. Saving the signatures, it was just exactly as it now reads.

CROSS EXAMINED BY THE STATE.

Attorney General.—What other bonds, besides the eighty-seven thousand two hundred, were included in the sale, and paid for to you by the Secretary of Interior?

A. He paid me four thousand four hundred dollars for bonds belonging to J. W. Robinson, two thousand six hundred for Hillyer.

This included Weir's thousand, and fourteen hundred dollars of my own.

Q. Could the State officers have negotiated those bonds in the way they did, if your contract had not been made?

A. I don't think they could.

Q. Were the bonds ever delivered to the Secretary or Auditor, except the time referred to in your direct examination?

A. No, sir.

Q. Did you conclude your contract with the Secretary of Interior before getting Lane's signature?

A. I did.

Q. Was the paper signed by Conway and Pomeroy when it was filed?

Q. It was signed by Pomeroy and Conway, and bore date 19th December.

Q. When you tore up the receipt, had the contract been entered into?

A. I think it had not. They were delivered up twice. The first time the contract was not made.

Q. When were the bonds delivered to Hillyer, before or after the contract had been made with the Secretary of Interior?

A. Once before I executed the contract of December 19th, 1861, with the Secretary of Interior, and when they (Hillyer and Robinson) refused to allow me to retain all over sixty cents, I declined to act any longer in the negotiation; told them to take their bonds and return me my receipt. This was done; but in a short time they returned to my room, and agreed to allow me to retain all over sixty cents, as is stated in the contract. Again, immediately after the execution of contract of December 19th, 1861, with the Secretary of Interior, (the next day, I think,) Auditor Hillyer and Secretary Robinson came to my room. Mr. Hillyer went on to state to me Senator Lane's action and his opposition to my carrying the money to Kansas. Mr. Hillyer seemed to talk as if he wished to gratify Gen. Lane, which offended me. Whereupon, I called for my receipt given him for bonds. He took out the receipt and gave it to me, when I told him to take their bonds and make their own trade, with some other remarks of a similar import. Hillyer was much surprised, and disclaimed any wish, on his part, to comply

with Gen. Lane's demands, or any desire to have me quit the negotiations. After some further conversation, I consented to continue on, finish the trade, and get pay if possible. I cannot state positively whether the bonds were in my room, at the time of this last conversation, or at the Interior Department. But my impression is that I still had them, though I am not positive.

Q. Did you ever pay John W. Robinson anything?

A. I did not, sir.

Q. To any agent?

A. Not a cent.

Q. To any one for him?

A. Never did.

Q. Have you donated anything since the first of July?

A. Not a cent.

Q. Any one for you?

A. Not any one, that I know.

Q. Did Corwin?

A. Not a cent to my knowledge.

Q. Any one for Corwin?

A. Not a cent to my knowledge.

Q. Either to Robinson or Hillyer?

A. Not a cent to my knowledge.

Q. Direct or indirect?

A. Neither to one or the other, directly or indirectly.

Q. Any one for them?

A. No, sir.

Q. Any one connected with them?

A. Not to any one for them.

EXAMINATION IN CHIEF RESUMED.

Mr. Stanton.—What amount did you pay them for their individual bonds?

A. Seventy cents.

Q. When did you make the settlement?

A. Some time in January, I think.

Q. Why did you give them seventy cents?

A. While in Washington, I let Mr. Robinson have \$1800, because he wanted to purchase stationary in Chicago, on his return to

Kansas. I let Mr. Hillyer also have \$1,000. Afterwards Dr. Teft presented an order from Robinson for \$200. It was a note or letter. I paid some to Weir by Hillyer's direction. I paid a small amount to the Post Master for ———. When I asked them how we should settle, they said seventy cents, which I paid them. I settled with Secretary Robinson on the 24th of January, 1862. The other sums were paid as on a running account.

Q. Had you any previous agreement as to what you would pay Secretary Robinson for his private bonds?

A. No, he wanted me to put his bonds with the rest.

[GOV. CHARLES ROBINSON'S TESTIMONY.]

Gov. Charles Robinson was then sworn on the part of the defense.

By Mr. Stanton.—Governor, will you state whether before the Secretary and Auditor went to Washington, you had any conversation with them in regard to what the law authorized the bonds to be sold for?

A. There was some conversation. I don't remember but one of any importance touching price. It was thought by the Secretary and Auditor that \$50,000 of the seven per cent. bonds could be sold at any price. They were the first to suggest that view, or it was suggested in this conversation. I never thought in reading the law there never was any difference. I could not give any opinion at that time, and when I examined the law, I came to a different opinion from them, and refused to agree to anything of the kind.

Q. Was this conversation held with a view to the execution of the trust imposed in you gentlemen?

A. It was held to ascertain what we had a right to do.

Q. Did you make any effort in conjunction with them to sell; if so, what did you do?

A. I don't know that I ever did. I telegraphed to New York at the request of the Legislature, to ascertain at what price they could be sold.

Q. Did you telegraph any where but to New York?

A. No, sir.

CROSS EXAMINATION BY THE STATE.

By Attorney General.—Did you predicate your opinion on chapter seven, section second, of the laws of 1861?

A. I predicated my opinion on that.

Q. Were all your attentions called to that?

A. We referred to it in our conversation.

Q. Did you ever authorize the sale for less than seventy cents?

A. I did not.

Q. Did you authorize the balance of the officers to employ an agent?

A. No.

Q. Did you authorize either the Auditor or Secretary to employ an agent?

A. No, sir.

By a Senator.—What authority did they have to use your name in Washington?

A. I did not understand that they had any authority. I made a remark at the conversation mentioned, from which they inferred probably, they had such authority; to the effect that if they could make any arrangement I would agree to it; supposing it would of course, be a legal arrangement.

On motion, the Senate adjourned.

EIGHTH DAY.

SENATE CHAMBER, }
Tuesday, June 10th, 1862. }

Senate of the State of Kansas sitting as a High Court of Impeachment met pursuant to adjournment.

President in the Chair.

Roll called.

Quorum not being present.

On motion, the Sergeant-at-Arms was sent for absentees.

Sergeant-at-Arms returned with Messrs. Lappin, McDowell and Rees.

Quorum present.

Journal of yesterday read and approved.

Present.—Hon. S. A. Stinson and the Board of Managers on the part of the House of Representatives.

Hons. Fred. P. Stanton, Wilson Shannon and George W. Smith, Respondent's attorney's.

Mr. Stanton announced to the Senate, that the defense desired no further examination of witnesses, and they were ready to submit the case.

The Attorney General announced that the prosecution had no further testimony to offer.

[ARGUMENT OF W. R. WAGSTAFF.]

Hon. W. R. Wagstaff of the Board of Managers, in opening the argument on the part of the prosecution, said :

MR. PRESIDENT AND SENATORS :

It has fallen to my lot to present the opening argument in this case, in behalf of the prosecution. The aim of the remarks will be to present fairly such evidence as ascertains and makes clear the truth of the material allegations set forth in the Articles of Impeachment preferred by the House of Representatives against John W. Robinson, Secretary of State of the State of Kansas. I confess my inability to present the facts on the part of the prosecution with that force and clearness that will hereafter be exhibited in setting forth the grounds of defense by the opposing counsel, who rank among the most ready and skillful debaters, not only in the forum, but in the councils of the nation. But, while I confess the superior ability of the defendant's counsel,—their surpassing eloquence and powers of oratory, I oppose them with facts,—plain, simple and convincing ; and present a case with all the elements necessary to try itself ; and, upon the truth of the charges preferred in the Articles of Impeachment, as shown by the evidence submitted, willingly abide the result, whether for or against the prosecution.

Senators, I ask in behalf of the Managers, and in behalf of all the people of Kansas, no unrighteousness ; no regard to the person of a man on account of his poverty ; no regard to the person of a man on account of his wealth or political station ; but I do ask that, in righteousness, you judge your neighbor.

In view, then, of the important and mutual responsibility resting on the Representatives of the people of Kansas, in rendering a

proper and rightful judgment upon the official conduct of one of their honored and distinguished public servants, let us consider the law and the facts which ought to control the mind in arriving at a just judgment in this case.

The first Article of Impeachment charges, substantially, that John W. Robinson, Secretary, acting with others as agents for the State of Kansas, empowered Robert S. Stevens to sell \$87,000 of seven per cent. bonds at any amount over sixty cents on the face of the bonds, and pay to the State no more than sixty cents; that said Robert S. Stevens, with the full knowledge of Secretary Robinson, sold fifty-six thousand dollars of said bonds at eighty-five cents, and accounted to the State at only sixty cents on the dollar. The said John W. Robinson betrayed the trust reposed in him by the State.

The statute authorizing the issuance and sale of the bonds in question, is an act entitled "An act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State," found on pages 102, 103 and 104, of the laws of 1861; and an act supplemental thereto, approved June 3, 1861, and found on pages 104 and 105 of the same year. That John W. Robinson was, prior to the 3rd of June, 1861, ever since, and still is, Secretary of the State of Kansas, is shown by the public records, and admitted by the counsel of the defense. It will be seen that the first act to which reference has been made, authorizes the issuing of the bonds of the State to the amount named, while in the second section of the supplemental act, the Governor, Auditor and Secretary, or a majority of them, are authorized and empowered to sell these bonds of the State of Kansas. It is provided, however, that no bonds shall be sold for less than seventy cents on the dollar, and that the proceeds arising from the sales, shall be paid directly into the Treasury of the State. Some bonds were prepared, but none sold till after the passage of the supplemental act; and of course the whole amount of bonds authorized to be issued, would go into the hands of the agents appointed by the supplemental act for sale. The rates fixed by law at which the bonds might be sold by the agents named, is clear and unmistakable; and by no known rule of interpretation adopted in any enlightened judicial tribunal on earth, can be construed to mean anything besides a limitation of the power of the agents of the State, to sell said bonds at any sum less than

seventy cents on the dollar. That John W. Robinson well knew the provisions of the law to which your attention has been called, is a fact too apparent to deserve a passing notice. George S. Hillyer, Auditor, and acting agent with the Secretary for the sale of these bonds, boldly declares in his testimony, that by the consent and acts of himself and Secretary Robinson, and no others, the bonds were sold to Robert S. Stevens at sixty cents on the dollar. Well might a braver man than Auditor Hillyer, under ordinary circumstances, shrink from the responsibility of such a statement, but when he makes that declaration, he knows that his acts are of record, and that, over his own official signature and that of John W. Robinson, is a certificate in which it is distinctly set forth, that for all the bonds belonging to the State, which the said Robert S. Stevens may sell, he is to pay into the State Treasury the sum of sixty cents on each and every dollar. The fact is of record and in Court, and from the responsibility of that act there is no escape. John W. Robinson, Secretary of State, is guilty of a willful and deliberate breach of official duty—a breach that will not admit of a doubt,—an infraction of the law that precludes the possibility of a quibble.

That the State of Kansas has lost, and lost largely in this transaction, is a fact too well established by the evidence, to be contradicted or disputed. It is also well established by the evidence, that Robert S. Stevens, his friends and co-workers, realize, out of this single bond transaction, in the short space of twelve days, in good money, the round sum of twenty-two thousand dollars. Senators will look in vain for some rational ground to justify or extenuate the conduct of John W. Robinson in this transaction. For nearly three months prior to the negotiation of these bonds, and till after the sale was consummated by Robert S. Stevens, the Secretary and Auditor were present in the City of Washington, and there for the sole purpose of negotiating the seven per cent. bonds of the State of Kansas, and with all the facilities at their command necessary to a full and complete knowledge of the facts and circumstances, in anywise connected with the sale. They did understand; they were fully advised of the whole transaction, and were as well informed of the acts of Robert S. Stevens in the premises, as they were of their own.

After the sale of the bonds, the Secretary and Auditor return home, and say to their friends, "We know not what the bonds sold

for to the Interior Department; but Robert S. Stevens sold our private bonds, amounting to several thousand dollars, with the bonds belonging to the State; the State bonds were sold at sixty cents on the dollar, but Mr. Stevens very generously accounts to us for our private bonds at seventy cents on the dollar." The learned counsel for the defense have, indeed, attempted to palliate the conduct of the Secretary and Auditor. Mr. Stevens is placed upon the witness stand, and gravely informs the Senate he never told the Secretary the price for which he sold the bonds, and the Secretary never inquired. It was certainly unnecessary for Mr. Stevens to inform, or for the Secretary to inquire of, an affair transpiring before his own eyes. Such cobwebs cannot conceal the guilt of the accused, nor protect against the just penalties of a violated law.

About the time the signatures of the Secretary and Auditor were attached to that remarkable certificate, by which the bonds of the State were sold at sixty cents on the dollar, the same signatures, with the name of the Governor added thereto by Secretary Robinson, are solemnly subscribed to a power of attorney, drawn up in due form of law, and delivered to Robert S. Stevens, authorizing and empowering him, the said Robert S. Stevens, to negotiate and sell for, and in the name of the State of Kansas, one hundred and fifty thousand dollars of the seven per cent. bonds. This power of attorney—for reasons not explained by the parties who executed it—was dated back, showing, on its face, October 25th, 1861, when, in fact, it was executed in Washington City about the first of December, 1861. That the Secretary and Auditor had, in the execution of these wonderful state papers, in view the sale of the bonds at a higher rate than sixty cents on the dollar on the face of said bonds, is apparent from the documentary evidence, taken from the records in the office of the Interior Department, in the City of Washington. On the third day of December, 1861, at the City of Washington, in the District of Columbia, and the real date of the certificate of sale and power of attorney, Robert S. Stevens, Esq., submitted a proposition to Hon. Caleb B. Smith, Secretary of the Interior, to sell to him, as trustee for certain Indian tribes, the entire issue of the seven per cent. bonds of the State of Kansas, amounting to one hundred and fifty thousand dollars, at eighty-five cents on the dollar. This proposition, after passing the usual routine of examination—best known and understood among the officials at the capital of our nation—was accepted; and, on the 19th

day of December, 1861—only twelve days after the proposition was first submitted—the contract, for the sale of the bonds at eighty-five cents on the dollar, was concluded between Caleb B. Smith, Secretary of the Interior, and Robert S. Stevens, who pretended to act as agent for the State of Kansas. Of the one hundred and fifty thousand dollars of the bonds, authorized to be issued by the State, sixty-two thousand dollars had been used by the Treasurer, Mr. Dutton, in the redemption of State scrip, at seventy cents on the dollar, leaving a balance of State bonds to be disposed of, under this contract, of about eighty-eight thousand dollars.

Senators will pardon me for a statement of the case which may partially recapitulate facts already noticed. The State of Kansas places bonds in the hands of the Secretary and Auditor to negotiate, with special instructions not to sell, in any market, for less than seventy cents on the dollar; they repair to Washington City to execute the trust reposed in them by the State; and, being advised before their arrival at the city, that the best market for the bonds would be in the office of the Interior Department; and, after having remained in the city for near three months, and until after the sale had been consummated, they return to Topeka, prior to the first day of January, 1862, and prior to the assembling of the State Legislature. No report is prepared, and none submitted to the Legislature, in regard to the manner of the execution of the trust. In the course of time, a resolution of inquiry is passed by the Legislature, inquiring whether or not the trust had been executed; if so, when, and in what manner? The Legislature are then informed that the bonds have been sold at sixty cents on the dollar, to Robert S. Stevens, and that the expenses incurred by the State in and about the negotiations of the bonds, amounted to about four hundred dollars. This four hundred dollars is charged as the expenses of the Secretary and Auditor, at Washington City, in the negotiation of the seven per cent. bonds, and is drawn from that portion of the sixty per cent. paid into the Treasury on the sale of said bonds. The Secretary and Auditor purposely conceal the fact that, the same day they sold the bonds at sixty cents on the dollar, the purchaser sold to the Interior Department at eighty-five cents on the dollar. The whole conduct of the Secretary and Auditor, in this bond transaction, goes to establish one of two facts:—that these State officers were fools or knaves. It is not to be supposed, for a moment, that they are fools.

The Second Article of Impeachment charges that the negotiation of the seven per cent. bonds of the State of Kansas, was carried on and consummated secretly in the City of Washington, by the Secretary and Auditor. What evidence do we find to establish the truth of this allegation? On the 210th page of the statutes of 1861, the 12th section and 4th paragraph, declares that the Secretary of State shall report annually, at least ten days before each regular session of the Legislature, to the Governor, any matters pertaining to his office. The regular session of the Kansas Legislature assembled at Topeka, on Tuesday, the 14th day of January, 1862, affording ample time for the Secretary to prepare, as he was bound by law to do, any matters pertaining to his office. The matter of the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, was one of the most important and responsible trusts committed to his charge as one of the officers of the State; and yet, strange to say, not a single word is said in any of his reports, for the information of the State, upon that subject. The most charitable construction that can be placed upon such official neglect and misconduct in office is, that, in the opinion of the Secretary and his co-workers in the negotiation of the bonds, that the time had not yet arrived for the disclosure of their work at Washington, and that the transaction should still be kept a secret. But, however fair the inference may be from the facts stated, that a part of the concocted plan of the Secretary and Auditor, at the City of Washington, was to keep their conduct, in this matter, a profound secret, we are relieved from any doubts in misinterpreting the conduct of Secretary Robinson, by his own written declarations in the City of Washington, and forwarded by mail to his private secretary, D. H. Weir. We refer to the letters in evidence in this case, and found at length on pages eight and nine of the printed report of the special committee, appointed by the House of Representatives to investigate the accounts of the Auditor and Treasurer of the State;* the sale of the bonds of the State of Kansas, &c., January 30th, 1862. The first letter is dated Washington, December 8th, 1862, in which we find the following sentence: "We want nothing said about bonds at all—not a word." It will be recollected the Secretary was writing from Washington City, to his private secretary at Topeka, and when he used the word *there*, he meant that nothing should be said *at the Capital* "about bonds at all—not a word;"

*See pp. of this volume, 14, 15, and 16.

and then, after pronouncing a self-reprimand for his own indiscretion for mentioning Senator Pomeroy's name in connection with the bonds, when, says the Secretary, the Senator has sworn to keep his name entirely away from the name of the bonds. The Secretary uses, in the concluding part of the letter, the following language: "Keep entirely *mum* about the bonds. Do not say a word to any person alive, not even to your wife; for we want it as secret as it can be, *till it is fixed*." Two days after this extraordinary caution, John W. Robinson writes again from Washington to his private secretary at Topeka, Kansas, urging upon him more strongly and forcibly the necessity of secrecy, in regard to the sale of the bonds, using these words: "And, as I said in my former letter, keep *mum* entirely about the bonds. Say nothing to nobody. So I want you to be very careful, indeed, what you say, and especially say nothing about bonds in connection with Washington or any of the State officers." And still later, on the 18th day of December, the day before the sale of the State bonds of Kansas was consummated at eighty-five cents on the dollar, his concluding admonition to his friend, D. H. Weir, in regard to the bonds is, "Keep still." After considering the testimony, to which we have called attention, if John W. Robinson, Secretary of State, is not guilty of secretly entering into an agreement for the sale of the bonds of the State of Kansas, as charged in the second Article of Impeachment, will Senators explain why John W. Robinson failed, neglected and refused, in the discharge of his official duty, to report to the proper officers of State, his doings in regard to these bonds? and why it was that, in writing from Washington City, to his clerk in Topeka, who was, at the time, his legal and accredited agent, and for whose acts he was officially responsible, he, time after time, warned him to keep still—keep entirely *mum* about the bonds—do not say a word to any person alive, not even to your wife, for we want it as *secret* as it can be till it is fixed?

The Third Article of Impeachment charges, substantially, that the seven per cent. bonds were issued, with coupons attached, and dated July 1st, 1861, and when the bonds were sold to the Interior Department by Robert S. Stevens, the alleged agent of the State of Kansas, about the first of January, 1862, when the coupons for the first semi-annual interest was due, and which had not then accrued against the State, and the said Stevens, with the full knowledge and

consent of the said Secretary Robinson, presented said coupons to the Treasurer of State, and received the full amount of semi-annual interest upon bonds amounting to $3\frac{1}{2}$ per cent. upon the sum of eighty-seven thousand two hundred dollars. Caleb B. Smith, Secretary of the Interior of the United States, in his deposition and in answer to the question—"Please state the circumstances in relation to the withdrawal from these bonds of the coupons for the semi-annual interest due in January, 1862," says:—"There was a coupon on each of the bonds for six months interest, due January, 1862. The money was paid for the bonds very near the last of December, 1861, and as there were a very few days intervening between the purchase and the time when the coupons were payable, I agreed that the coupons should be cut off and retained by the State." Here, then, according to the well known business customs of the country, and according to the laws of the land, the delivery of the coupons to Mr. Stevens, while acting as agent for the Auditor and Secretary, was a delivery to them. And these officers—trustees for the State of Kansas—in the honorable discharge of an official duty, should have canceled or destroyed the coupons, thereby relieving the State from any liability on account thereof. But, on the contrary, the Secretary and Auditor exhibited a wanton recklessness, seldom witnessed even in the most ordinary business transaction, by allowing their agent, Mr. Stevens, to present and draw from the Treasury of the State, the coupons for the semi-annual interest on \$87,200, amounting to $3\frac{1}{2}$ per cent. on said sum, which was drawn in money from the Treasury of the State, by which the State was swindled out of the sum of \$3,052. The evidence is brief, direct, and in point. Senators are requested to examine the testimony in regard to this article carefully, especially that of Treasurer Dutton, before a final decision is made up. The evidence shows John W. Robinson guilty of the charges alleged in the third Article of Impeachment.

The Fourth Article charges that John W. Robinson, while acting as agent of the State, and without authority of law, appointed Robert S. Stevens, to negotiate and sell the bonds of the State of Kansas, and delivered to him a large amount of said bonds, and took no security to preserve the State from loss, while he so held, &c.

It is a well settled principle in law, when one person is acting in the capacity of an agent for another, that the agent has no power

to transfer his authority to any other, without an express grant for that purpose. John W. Robinson committed a breach of official duty, in appointing Robert S. Stevens to act as agent for the State of Kansas; an act against law and void. That he took no security from Mr. Stevens to preserve the State against loss, while he held and negotiated said bonds, is fully shown by all the proof, without a single circumstance intervening to raise a doubt as to its truth. When the Legislature enacted the law authorizing the negotiation of \$150,000 of the bonds of the State of Kansas, Stone and Clark were appointed agents of the State to effect the negotiation of the bonds, and before entering on the duties of their trust were required to give bonds in the sum of \$300,000 to the State, for the faithful discharge of the trust. What a contrast between the conduct of John W. Robinson and the Legislature of the State! The contrast shows gross neglect of duty on the part of John W. Robinson—his total disregard of the interest of the State, and of the responsibility of his trust.

The Fifth Article of Impeachment charges that the said John W. Robinson, Secretary of State, George S. Hillyer, Auditor of State, conspired with Robert S. Stevens, and did secretly, in the City of Washington, in the District of Columbia, consummate the sale of certain bonds of the State of Kansas, at eighty-five cents on the dollar, and accounted to the State for only sixty cents on the dollar.

Wharton's American Criminal Law, page 786, says :—" A combination is a conspiracy in law, whenever the act to be done has a necessary tendency to prejudice the public or oppress individuals by unjustly subjecting them to the power of the confederates, and giving effect to the purposes of the latter, whether of extortion or mischief." The same distinguished author, on pages 794 and 796, in treating of the proof necessary to sustain the charge of conspiracy, says :—" The proof of the combination charged must almost always be extracted from the circumstances connected with the transaction which forms the subject of the accusation. In the history of criminal administration, the case is rarely found in which direct and positive evidence of criminal combination exists."

To hold that nothing short of such proof is sufficient to establish a conspiracy, would be to give immunity to one of the most dangerous crimes which infest society. Hence, in order to discover

conspirators, we are forced to follow them through all the devious windings in which the natural anxiety of avoiding detection teaches men so circumstanced to envelop themselves, and to trace their movements from the slight, but often unerring marks of progress, which the most adroit cunning cannot so effectively obliterate as to render them unappreciable to the eye of the sagacious investigator. It is from the circumstances attending a criminal, or a series of criminal acts that we are able to become satisfied that they have been the results, not merely of individuals, but the products of concerted and associated action, which, if considered separately, might seem to proceed exclusively from the immediate agents to them; may be so linked together by circumstances, in themselves slight, as to leave the mind fully satisfied that these apparently isolated acts, are truly parts of a common whole; that they have sprung from a common object, and have in view a common end.

The adequacy of the evidence in a prosecution for a criminal conspiracy, to prove the existence of such a conspiracy, like other questions of the weight of evidence, is a question for the jury. The offense of conspiracy, in fact, is rendered complete by the base engagement and association of two or more persons to break the law, without any act being done in pursuance thereof by the conspirators. The actual fact of conspiring may be inferred, as has been said, from circumstances, and the concurring conduct of the defendants need not be proved. Any concurrence of action, on a material point, seems to be sufficient to enable the jury to presume concurrence of sentiment; and one competent witness will suffice to prove the co-operation of any individual conspirator."

We have, in the onset, under this article of impeachment, read, from authority that will not be called in question, to show what combination in law constitutes a conspiracy, and the proof, and the character of the proof necessary to sustain charges preferred against conspirators. The combination of Secretary Robinson, Auditor Hillyer and Robert S. Stevens, to effect the negotiation of the bonds of the State of Kansas, secretly and in violation of law, is sufficiently shown by the proof referred to in considering the preceding articles of impeachment. The confession of a party charged with the commission of a criminal offense, when made freely and without restraint, is admissible according to the rules of evidence adopted in courts of law, and is to be regarded as proof of great weight and construed strongly against the party making such confession.

In a letter from John W. Robinson, Secretary of State, dated at Washington, December 18, 1861, to D. H. Weir, his clerk at Topeka, he says :—" We have altered proposition after proposition, and met obstacle after obstacle, until I have been discouraged, disgusted, and thoroughly mad. The last one is Jim Lane, an enemy of Stevens' ;" &c., thus declaring in terms, what all the proof in the case goes to establish, that the Secretary, Stevens and others, concurred in sentiment and co-operated in acts in the negotiation of the bonds. But the concluding paragraph advances one step farther, and develops the fact that the Secretary knew that Robert S. Stevens had sold the bonds of the State of Kansas to the Interior Department for more than sixty cents on the dollar. Here is the concluding paragraph of the letter. Mark well the language: " There are one thousand dollars of your bonds. We shall have them put into sale, if made at all, at whatever the State (*or we*) get for ours, of course ; *but we shall get the seventy cents, as I had hoped, before leaving.* We may possibly put in the whole lot at sixty cents, but it will never hurt the State a dime, or will ever be heard of, but I shall thank God. *Keep still !*" " But we shall get the seventy cents, as I had hoped, before leaving !" What locality had the Secretary left ? Some two or three months before the writing of this letter, the Secretary and Auditor had left Topeka, Kansas, and moved directly to the City of Washington, and this is a portion of a letter written at Washington City, and sent home by mail to his clerk. And that letter was written only the day before the contract for the sale of the bonds of the State of Kansas, at eighty-five cents on the dollar, was concluded between the Secretary of the Interior and Robert S. Stevens. In the language of the law before quoted, " The proof of the combination charged must almost always be extracted from the circumstances connected with the transaction which forms the subject of the accusation." In the history of criminal administration, the case is rarely found, in which direct and positive evidence of criminal combination exists. To hold that nothing short of such proof is sufficient to establish a conspiracy, would be to give community one of the most dangerous crimes which infest society." What, then, we ask, are the circumstances connected with the transaction which forms the subject of this accusation ? In the month of July, 1861, Robert S. Stevens left Kansas, went to Washington City, and there sold about thirty thousand dollars of the War Bonds, at ninety-five cents on the dollar, which bonds he had previously

purchased from Mr. Dutton, State Treasurer, at forty cents on the dollar, realizing in this transaction a handsome profit of about eighteen thousand dollars. Mr. Stevens was encouraged with his success in the sale of the War Bonds, and finding the faith and credit of the State of Kansas, furnished a good basis for private speculation, concluded to extend in that line the sphere of his actions. About the first of September, 1861, he met Mr. Dutton, Treasurer of State, at the City of Buffalo, in the State of New York. Mr. Dutton then and there delivered to said Stevens \$29,000 of the seven per cent. bonds of the State of Kansas, and took his receipt, stating that the bonds should be sold at seventy cents on the dollar, or returned to the State. Whereupon Mr. Stevens returned to the City of Washington, and submitted a proposition to the Secretary of the Interior Department of the United States, to sell one hundred thousand dollars of the seven per cent. bonds, but failed of success. Unwilling to yield his chances of success with Kansas State bonds and Kansas State officers, he concluded to renew his efforts, and extend the circle of operations. With this object in view, he goes from Washington City to Dayton, Ohio. There he meets one Robert G. Corwin, an attorney at law, and a brother-in-law of Caleb B. Smith, Secretary of the Interior of the United States. An interview takes place immediately concerning the seven per cent. bonds of the State of Kansas, in which Mr. Stevens informs Mr. Corwin fully as to his plans, prospects, and of the rejection of his proposition by the Secretary of the Interior. Mr. Corwin suggests a modification of the original proposition made by Stevens; the change is agreed to, and another proposition, in accordance therewith, is prepared to be submitted to the Department of the Interior, for the sale of one hundred thousand dollars of the bonds of the State of Kansas. The \$29,000 of the bonds delivered by Dutton to Stevens in the City of Buffalo, New York, are now handed over to Robert G. Corwin, together with the amended proposal to sell, which Mr. Corwin takes with him to the City of Washington. Two bold financiers are now fairly in harness to speculate in the faith and credit of the State of Kansas. The one goes from Dayton, Ohio, to Washington City, the other returns to Kansas, his adopted State.

Where now is the \$29,000 of the bonds, that were to be sold for seventy cents or returned to the State? In the hands of Robert G. Corwin. Soon after leaving Dayton, Ohio, Robert S. Stevens is in

the city of Leavenworth, and there proposes to buy the bonds of the State from Messrs. Clark and Stone; they declined to accept the proposal for two reasons: First, because they had no power to sell: Second, the price proposed would not justify the State to accept. Two very good reasons.

About the 15th of October, 1861, Robert S. Stevens is at Topeka, the Capital of our State. That day, or the next, John W. Robinson, Secretary of State, George S. Hillyer, Auditor of State, Charles Robinson, Governor, and Robert S. Stevens, Esq., are assembled in council. The particular subject under consideration is, that provision of the law which declares the seven per cent. bonds shall not be sold by the State officers for less than seventy cents on the dollar. The history of the law is fully reviewed, for the purpose of forcing a construction in opposition to an express limitation of price for which the bonds were authorized to be sold. Secretary Robinson and Auditor Hillyer expressed themselves fully convinced that, inasmuch as the Legislature had enacted a law authorizing the issuance of one hundred and fifty thousand dollars of the bonds of the State of Kansas, payable in fifteen years, drawing interest at seven per cent. per annum, and had authorized Messrs. Stone and Clark to sell these bonds without fixing any price, and to report their doings to the Legislature within a given time; and in the event of no sale being made by these agents, to return the bonds to the State; and moreover, as fifty thousand dollars had been issued under said act, and placed in the hands of Clark and Stone, who having failed to sell said bonds, returning the same to the Legislature then in session; and who had also surrendered their trust; and as the supplemental act was passed after the surrender of these bonds to the State, therefore, a majority of the State officers were fully authorized under the supplemental act to sell or discount fifty thousand dollars of bonds at any price whatever, limited only by their discretion. Governor Robinson declared that such a construction was novel—left his mind in doubt—and for the present he would not consent to it, but would hold the subject under advisement, and left the council. Secretary Robinson and Auditor Hillyer then sold to Robert S. Stevens fifty thousand dollars of the seven per cent. bonds, at forty cents on the dollar, and twenty-five thousand at seventy cents on the dollar, making \$75,000 of the seven per cent. bonds. These two State officers then executed and delivered to Robert S. Stevens a certificate or statement of the amount of bonds

sold to him, and specifying the price for which they were sold. Under this arrangement, they delivered to Robert S. Stevens twenty-one thousand dollars of the seven per cent. bonds, which, with the \$29,000 which had been previously delivered to him at Buffalo, New York, made up the fifty thousand dollars at forty per cent. At this time, other bonds, in a book, which were incomplete for the want of the Governor's signature, were delivered to R. S. Stevens. The bonds that were incomplete, together with the twenty-one thousand dollars, were conveyed by Mr. Stevens to Lawrence, where he obtained the signature of the Governor to the unsigned bonds, and returned them by express to the Auditor and Secretary at Topeka. The twenty-one thousand dollars he delivered to Dr. Woodward, with a letter of instructions to Robert G. Corwin, to be delivered to him at Washington City, and placed with the other papers of Stevens, and to be paid for by the Secretary of the Interior, if his proposition was accepted. The bonds, with instructions, were delivered as directed to Mr. Corwin, by S. C. Smith, cashier of the Lawrence Bank. The fifty thousand dollars of the bonds being accounted for, we leave Robert S. Stevens at the Sac and Fox Agency, where it became necessary to give personal attention to some Indian contracts.

Shortly after this transaction, John W. Robinson, Secretary, and George S. Hillyer, Auditor, commenced preparing to go to Washington City. Before leaving for Washington, John W. Robinson was anxious to borrow seven per cent. bonds; he wanted \$1,000 from S. C. Wilmarth, and got \$400, and a day or two before he left, said that Senator Pomeroy wanted to invest in Kansas State bonds; he got \$400 of bonds from Dr. Teft, of Topeka, and informed him at the time, that Pomeroy could sell the bonds; and when Dr. Teft consented that Secretary Robinson might take the bonds to Washington, Robinson informed him that the bonds could be sold to the Interior Department, for the Indians, at seventy cents on the dollar; that he had a letter from Gen. Pomeroy to that effect. As soon as Robinson had collected all the outstanding seven per cent. bonds he could on his own private account, and scrip which he bonded, making in all about four thousand dollars, he started for Washington City. In a day or two thereafter, George S. Hillyer, also left for the same place. Hillyer arrived at the City of Washington a day or two before Robinson. The Secretary and Auditor are now in the City of Washington for the purpose of negotiating the bonds of the

State of Kansas, and Stevens is still at the Sac and Fox Agency. Hillyer has in his possession seven per cent. bonds, his own private property, amounting to fourteen hundred dollars; two hundred for Treasurer Dutton; for Weir, clerk of Robinson, about \$1,000; for the State of Kansas, \$37,200; and Secretary Robinson, on his own account, about four thousand dollars. A correspondence by mail and by telegraph was opened and continued between the Secretary and Auditor at Washington City, and Robert S. Stevens, until the latter, on the first of December, 1861, arrived at the City of Washington. On the third day of December, 1861, as heretofore shown, the bonds were sold to Stevens at sixty cents; on same day the proposition was submitted by Stevens to the Interior Department, for eighty-five cents on the dollar, and during all the time this negotiation was pending in the Interior Department, and until after its consummation on the 19th day of December, 1861, the Secretary, Auditor, Stevens and Corwin were together in the City of Washington, and all these, from their own showing, for the purpose of effecting the negotiation of the seven per cent. bonds of the State of Kansas.

From the facts, a combination between the Auditor, Secretary, and others, is clearly shown, to sell the bonds of the State of Kansas in violation of law; and the acts by them performed, in the negotiation of the bonds, have a tendency to prejudice the public, and to effect the purpose of the conspirators; not only of extortion but of mischief. These are sufficient, according to the rules of evidence in Wharton's Criminal Law, to convict the parties here charged of a conspiracy. In following these conspirators through the devious windings of this bond transaction, there is seen, in almost every movement, an anxiety to avoid detection, and to conceal their conduct from the eye of the sagacious investigator. The Secretary and Auditor declare there was only one contract for the sale of the bonds to Robert S. Stevens, and that one was made in Washington City, on the 3d day of December, 1861. Auditor Hillyer declares he took thirty-seven thousand two hundred dollars of the bonds with him to Washington, and there he found the other fifty thousand dollars of the bonds in a safe at Washington, but in whose care he does not state. When asked how came these bonds at Washington, he is unable to tell—he knows not. The Secretary not informed; he, too, is ignorant on this point. Singular, indeed, that these two men, having the sole custody and charge of these bonds, cannot tell

how or in what way the fifty thousand dollars of the bonds passed out of their hands and found their way into a safe in the City of Washington. How came R. S. Stevens in the possession of these bonds? They were handed to him by Mr. Dutton, State Treasurer. This is strange conduct. Mr. Dutton had no legal authority to handle or dispose of the bonds. The receipt of Stevens to Dutton for twenty-one thousand dollars of the bonds, is dated October 25th, 1861. Dutton says he delivered these bonds to Stevens by the direction of the Secretary and Auditor, but they have no recollection on that point. If it be true that the Secretary and Auditor had no knowledge of the transit of these bonds from their hands to a safe in the City of Washington, is it not passing strange they should execute a power of attorney, authorizing R. S. Stevens to sell all the bonds, at the City of Washington, on or about the first of December, 1861, and date it back to the 25th of October, 1861?

R. S. Stevens, on his part, first explains the arrangement and the manner in which the bonds came into his hands, and how they were taken to Washington, and into whose hands placed; and then gravely informs us that the contract of 25th of October, 1861, failed because Governor Robinson refused to sign the certificate of sale given him over the signatures of the Secretary and Auditor. After fifty thousand dollars of the bonds had been delivered to him by a majority of the State officers authorized by law to sell, and after he had placed the bonds in the hands of Robert G. Corwin, his partner at Washington City, he tore up the certificate of sale. Yes, he tore it up, as he could afford to do, to make apartments for the consciences of the Secretary and Auditor, so that they could solemnly declare they did not recollect, and in fact never had made, any arrangement for the disposal of the bonds, besides the one at Washington City. Whether this transaction shows concurrent sentiment and concurrent conduct between John W. Robinson, George S. Hillyer, R. S. Stevens and others, to sell the bonds at eighty-five cents on the dollar, and account to the State for only sixty cents on the dollar, is a question we now leave for Senators to decide.

The Sixth Article charges John W. Robinson with procuring the publication of the banking law, in a newspaper called the Wabaunsee Patriot, when he well knew that no such newspaper was in fact published in the county of Wabaunsee, in the State of Kansas.

The proof is, that in the fall of 1861, the publication of a newspaper called the Wabaunsee Patriot was commenced in the Tribune office at Topeka, in Shawnee county, Kansas, by J. F. Cummings, and continued for eight or ten issues, and then ceased to exist. The banking law was published in this paper, and about one hundred copies of each issue sent from the Tribune office by mail, for circulation in the county of Wabaunsee. Soon after the publication of the banking law had been completed, Mr. Cummings made out his account—amounting to three hundred and forty dollars—against the State, for publishing the law in the Patriot; presented it to D. H. Weir, then clerk and acting Secretary of State, who certified to its correctness, and a warrant was drawn on the Treasury for the amount. This warrant was assigned in blank to Robert S. Stevens, and the money drawn from the Treasury. We have before referred to the law which makes the Secretary responsible for the acts of his clerk, and it is now unnecessary to repeat.

The 43d section of the banking law, found on page 100 of the statutes of 1861, provides that this act shall be published in one newspaper in each county in this State, when practicable, &c. The language clearly means, in each county where a newspaper is actually—not constructively—published. Were the opposite construction adopted, the law might be published in the New York Herald, Tribune, or Day Book, and fifty or one hundred copies sent by mail, to a nominal local editor, in the county of Wabaunsee, in Kansas. the account audited, and a warrant drawn on the Treasury of this State, and that, too, with as much apparent consistency, as actually to print the law in the Wabaunsee Patriot, published in the office of the Tribune, in the City of Topeka, Shawnee county, Kansas, and to claim constructively its publication in the county of Wabaunsee. Whatever circumstances may be claimed to justify the publication of the banking law in the Wabaunsee Patriot, it is a fact that for each issue of the paper, thirty-four dollars was, during its publication, drawn from the State Treasury; that the whole transaction is a petty peculation, a fraud in law, and derogatory to the character of the public functionary who would give it countenance or sanction.

Article Seventh charges that John W. Robinson countersigned forty thousand dollars of the War Bonds of the State of Kansas, under the act of May 7, 1861, when, by law, he was only authorized to countersign bonds to the amount of twenty thousand dollars.

The law under which the article is framed is found on pages 205 and 206 of the Statutes of 1861. The first section of the law authorizes the Treasurer of this State to borrow the sum of twenty thousand dollars, or such part of that sum as may be necessary to repel invasion, suppress insurrection, &c. The total sum which the Treasurer is authorized to borrow is twenty thousand dollars, with the privilege of borrowing any sum less than the amount named, thereby clearly limiting the power to borrow any sum larger than the amount fixed in the law. The second section authorizes the Treasurer to prepare bonds to the full amount of said law, fixing bounds beyond which the Treasurer shall not go in the preparation of the bonds—the full amount of said loan, the sum of twenty thousand dollars, and no more. The said bonds, to the full amount mentioned, and no more, shall be signed by the Governor and Treasurer, countersigned by the Secretary of State, and shall have the seal of the State of Kansas attached, and registered by the Auditor of State. Every limitation applicable to the amount of the loan, and to the amount of the bonds to be prepared by the Treasurer, applies with full force to the power of the Governor and Treasurer to sign, and to the power of the Secretary to countersign the bonds. They are authorized to execute twenty thousand dollars of the bonds, and no more, and every bond executed beyond the sum specified is illegal, and a usurpation of power on the part of the State officials. That it was not the intention of the Legislature that bonds to any given amount, under this law, should be prepared and executed, and placed in the market by the State officers, and then discounted at any rate, so as to raise twenty thousand dollars, must be apparent from the time fixed for their full payment, and the rate of interest which they draw. We read the words of the law: "And shall be payable in two years from the time said loan is effected, and shall bear interest from said time, at the rate of ten per cent. per annum; said interest payable annually at the office of the Treasurer of State. The faith and credit of the State of Kansas are hereby pledged for the repayment of said principal and interest, when the same shall become due and payable. The loan herein authorized shall be made upon the bonds specified and provided for in section two of this act." Could any man, the most inexperienced and humble, who can read and is possessed of the most ordinary knowledge of the English language, fail to understand the plain meaning and intent of this statute to be to limit the power of the State officers, in the issuance

of these bonds to the sum of twenty thousand dollars. To suppose that distinguished and highly intelligent gentlemen, the Governor, Secretary and Treasurer, clothed with the business and executive powers of the State of Kansas, should, through ignorance, misconstrue this statute to mean they had power to issue one hundred thousand dollars of War Bonds, and then sell them at twenty per cent. upon the face of said bonds, for the purpose of raising twenty thousand dollars in money, is a reflection on the intelligence of the people and of the one hundred representatives who composed the Legislature which enacted the law, not to be entertained for a single moment.

The proof is. that the Governor and Treasurer signed, and the Secretary countersigned forty thousand dollars of the War Bonds, and that Treasurer Dutton sold thirty-one thousand dollars of the bonds so executed to Robert S. Stevens, at forty cents on the dollar—eleven thousand dollars of the bonds beyond the amount authorized by law to be issued. The Governor, Treasurer and Secretary, in executing forty thousand dollars of War Bonds under this law, have inaugurated a rule of construction unknown in courts of justice; and had the Secretary withheld his sanction, and refused to countersign more than twenty thousand dollars of the bonds, the State would have been saved from a policy which must prove most ruinous and destructive to its finances and to its credit.

Article Eighth charges that John W. Robinson, acting in conjunction with the Auditor and Treasurer, on the 10th day of June, 1861, awarded to Trask & Lowman, of Lawrence, Kansas, the Legislative printing for the year 1861, as the lowest bidders, and, after bonds had been filed as required by law, the said John W. Robinson consented to the withdrawal of said bid, and the contract was awarded to the next lowest bidder, whereby the State suffered great pecuniary loss.

It appears, from the testimony, that Trask & Lowman, and Cummings, and Ross had bid for the Legislative printing for the year 1861; the bid of the latter was in the name of Cummings. The bid of Trask & Lowman was 65 cents per 1,000 ems; the first bid of Cummings was 55 cents per 1,000 ems. Before any award was made by the State officers, Cummings withdrew the first bid, and filed an amended bid at one dollar per 1,000 ems. The printing

board afterwards held a meeting, and awarded the contract to Trask & Lowman, for the Legislative printing. The Secretary, John W. Robinson, notified Trask & Lowman that their bid was accepted, and to appear and file their bonds. According to notice, Trask & Lowman executed and deposited their bond, which was examined by the Auditor, in the presence of D. H. Weir, clerk of Secretary Robinson, and by him approved; but the approval was not indorsed on the bond. The same day, Mr. Trask asked the Auditor for leave to withdraw the bid and bond, which was refused. The same evening, or next morning, Auditor Hillyer called at the office of the Secretary of State, inquired of D. H. Weir for the bond, and the bond was missing. About the time the bond and bid were missing, Cummings, Trask, and others, were in the office of the Secretary of State, and Cummings asked Trask to withdraw the bid and bond. The subject of withdrawal was freely discussed. D. H. Weir was present during the time of the discussion, and a portion of the time John W. Robinson, Secretary, was also present. After a full discussion, the bid and bond of Trask & Lowman were withdrawn. Trask afterwards told Cummings he had the bond in his pocket.

The circumstances connected with this transaction show that John W. Robinson knew and consented to the withdrawal of this bid and bond. The bid withdrawn was for the Legislative printing, at 65 cents per 1,000 ems, for the year 1861; and the bid of Cummings, at one dollar per 1,000 ems, being the next lowest, was accepted, and the contract let accordingly. It is useless to exemplify or illustrate the circumstances attending this transaction. The affair itself shows a fraud upon the State, and a guilty knowledge on the part of John W. Robinson of that fraud.

The order of the Articles of Impeachment, as preferred by the House of Representatives against John W. Robinson, Secretary of State of the State of Kansas, has been followed, in the remarks submitted, without regard to the logical arrangement of the argument. The object in view, during all the time, has been to state facts as they occurred, with coincident circumstances, showing the connection of the facts with the matters under consideration.

At a time when American citizens are called, by the constituted authorities of this nation, from their homes, and are in the tented fields all over the land for the purpose of suppressing a monstrous

rebellion, and on account of which every department of our government is struggling under a great financial pressure, the first Legislature of the infant State of Kansas is in session at her Capitol; and, for the purpose of assuming the proper financial character among the sister States of the Union, the Legislature enacts a law, authorizing the issuance of one hundred and fifty thousand dollars of bonds, to defray the current expenses of the State, and constitutes John W. Robinson, with two others, agents to negotiate the bonds, under certain limitations, specified in the act.

There never will be a time, in the history of this State, when a loyal people will look with more confidence and profound respect to the ability and integrity of public functionaries to discharge, faithfully, any trust committed to their charge, than did the people of Kansas look to the board of State officers to negotiate these bonds. But who can describe their disappointment, their regret, their just indignation, when they find that confidence betrayed by those in whom they had confided, the dignity and credit of the State prostituted, to selfish purposes, in a little, dirty traffic for lucre and emolument!

Senators will bear in mind that there is a real distinction between extortion and knavery, on the part of a public officer, and a State necessity, even in times of great peril. That distinction has been graphically drawn in one of the speeches of Mr. Sheridan: "That imperial tyrant, State necessity, is yet a generous despot;—bold is his demeanor, rapid his decisions, and terrible his grasp. But what he does, he dare avow; and avowing, scorns any other justification than the great motives that placed the iron scepter in his hand. But a pilfering, prevaricating State necessity, that tries to skulk behind the skirts of justice—a State necessity that tries to steal a pitiful justification from whispered accusations and fabricated rumors—no, that is no State necessity: tear off the mask, and you see coarse, vulgar avarice; you see speculation under the gaudy disguise, and adding the guilt of libelling the public honor to its own private frauds."

History is said to be philosophy teaching by example. A recurrence to the fact that the ancient Empire of the Moguls was transferred into the hands of a company of London merchants, may serve to point out the danger to our State by allowing executive officers to assume and exercise powers not granted to them by law. 'Consent to a usurpation of power, on the part of rulers, and there remains no

security for the liberty of the people. The Mogula are described as the descendants of a throne, once the loftiest in the world—a virtuous, industrious and happy people. Yet it is recorded, in the history of the rise and progress of British power in India, that, on account of the gradual assumption of powers by Warren Hastings, governor general, these people were, in time, reduced to stipulate with the servants of traders for subsistence; and the dethronement of princes converted into a commercial transaction, and a ledger account kept of the profits of the revolution.

While we claim, in behalf of the people of Kansas, all the virtue and intelligence possessed by any like number now on the stage of action, yet if they permit their public servants to exercise powers beyond those granted by the State, to discount bonds to fill their own pockets, and, for all practicable purposes, to mortgage the property of the people for the payment of the interest and the redemption of the bonds, it will not be long until a ledger account of the profits of the Kansas State bonds will be kept with the Wall street brokers, in the city of New York; and, if the people of Kansas are not made to stipulate with the servants of these brokers, we have failed to profit by the example of history.

AFTERNOON SESSION.

Two o'clock, P. M.

Senate met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Absentees—Messrs. Essick, Hoffman, Holliday, Lynde, Morrow, Rees, Spriggs and Stevens.

Hon. Wilson Shannon proceeded with his argument on the part of the defense.

[Copy not furnished.—PRINTER.]

On motion, Senate adjourned.

NINTH DAY.

SENATE CHAMBER,
Wednesday, June 11, 1862, 9 o'clock, A. M. }

The Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Absentees—Messrs. Denman, Essick, Hoffman, Lappin, Lynde and Stevens.

Journal of yesterday read and approved.

Present—Hon. S. A. Stinson and the Board of Managers, on the part of the House of Representatives.

Hon. F. P. Stanton, respondent's attorney.

[ARGUMENT OF HON. F. P. STANTON.]

Hon. F. P. Stanton, in commencing his argument on part of the defense, said:

MR. PRESIDENT AND SENATORS:

In approaching the argument of this case, I am fortunate in having been preceded by the eminent gentleman who has just addressed you, on behalf of the officers accused; the great burden of argument and explanation has been taken from my shoulders. In other respects, however, I am not so fortunate; for the argument of Gov. Shannon has been so clear and lucid, so satisfactory and exhaustive, that little is left for me to say. Were not the question so complicated in its bearings as to admit of some additional illustrations, I would gladly rest the case upon the argument already presented for the defense. I will endeavor to avoid the ground already occupied by my colleague, although I am aware how difficult it will be to keep out of the luminous track which he has pursued.

Before entering upon my argument of the main question, I beg that you will permit me to say a word upon a point which was argued at the outset, and has been passed upon by the Senate:—I mean the question of the legality and constitutionality of your session at the present time. I would not now offer a word on that subject, if I had not been represented as *threatening* the members of this body with a deprivation of their pay.

I based my argument of that question upon two positive provisions of the Constitution: First, Upon that clause which prohibits either House from adjourning, for more than two days, without the consent of the other. Second, The section which provides for pay of members and which confines the compensation to sessions of the Legislature. From these provisions, I draw the conclusion that separate sessions of either House were not only not contemplated by the Constitution, but were in direct conflict with its letter and spirit. I think the argument was legitimate and fair. When I suggested that any member might test the question, by applying for a mandamus to compel the proper officer to audit and settle his account for per diem and mileage, I did not mean to say that members would be compelled to take that course; for I supposed the Auditor would be protected, as a mere ministerial officer, in settling the accounts for which an appropriation was made by the last Legislature. But I thought it possible some member might think the question of sufficient interest and importance, to be settled by the Supreme Court of the State, upon his own application. While I am still confident of the soundness of my argument, and of the utter incompetency of this body, sitting at the present time, I disclaim any intentional disrespect to the Senators, either individually or collectively.

It may not be improper for me, before quitting this subject, to call your attention to the fact, which I learn from the Secretary, that the proceedings of the Court, held during the session of the Legislature, were never read to the body nor examined by the President, nor have they ever been signed by any officer or other person whatever. I have already shown that they were not incorporated in the journal of the Senate. There is, therefore, no record of those proceedings, and especially of the assumed adjournment over to the first Monday in June. The rough notes, kept by the Secretary, are in his possession; but they have never been transcribed or in any way authenticated. I take it for granted that this record cannot now be made good; for records do not thus rest in the memory of individuals; and to allow the defect now to be remedied, would introduce a principal in every way too dangerous to be tolerated in transactions of such magnitude.

But you have decided the question, holding yourselves to be constitutionally organized as a Court of Impeachments; and we, after due deliberation, acting for the best interests of our clients, have

held it to be our duty to enter into the investigation, and to make the same defense which we would if we believed this body to be regularly and constitutionally empowered to act in the premises.

Having thus, Mr. President and Senators, assumed the functions of a High Court of Impeachments, you will permit me to inquire, briefly, as to the character and the solemn duties of such a tribunal.

No higher or more important functions have ever been devolved upon any body of men. You sit as judges between the State and its highest officers—the great body of the people on the one hand, and a single individual on the other. If, on the one side, you have it in charge to protect the interests of the whole community, and to maintain the purity of the public administration, on the other you have power, not, indeed, over the lives of individuals, but over what is dearer than life—honor and reputation. You assume to pronounce the civil and political destiny of the defendants. You wield a power which may ruin character, destroy fortunes, cut off all the hopes and prospects of life, and crush the hearts of others than those against whom your judgment may be launched. With such tremendous issues placed in your hands, you cannot fail to approach the decision of this case with the most solemn sense of responsibility, and with entire freedom from all those popular prejudices and passions, which might, unduly, bias or control your conclusions. On this subject, I will ask your permission to read a few passages from Judge Story's work on the Constitution. His words are so much more succinct and pertinent than any words of mine could be—so much more weighty and well considered—that I am sure you will take them to heart in your decision of this case, and, with perfect impartiality, freedom from party spirit, popular prejudice and passion, and with utter blindness to any consideration, except those of truth and justice, you will pronounce a judgment worthy of yourselves and of the high judicial position in which you are placed.

Mr. Stanton read from pages 216, 217 and 248, 2nd volume, and sections 748, 744 and 777, as follows :

"The great objects to be attained in the selection of a tribunal for the trial of impeachments, are impartiality, integrity, intelligence and independence. If either of these is wanting, the trial must be radically imperfect. To secure impartiality, the body must be, in some degree, removed from popular power and passions, from the influence of sectional prejudice, and from the more dangerous influence of mere party spirit. To secure integrity, there must be a lofty

sense of duty and a deep responsibility to future times, as well as to God. To secure intelligence, there must be age, experience and high intellectual powers, as well as attainments. To secure independence, there must be numbers as well as talents, and a confidence resulting at once from permanency of place, and dignity of station, and enlightened patriotism. * * *

"The subject is itself full of intrinsic difficulty in a government purely elective. The jurisdiction is to be exercised over offenses which are committed by public men in violation of their public trust and duties. Those duties are, in many cases, political; and, indeed, in other cases, to which the power of impeachment will probably be applied, they will respect functionaries of a high character, where the remedy would otherwise be wholly inadequate, and the grievance be incapable of redress. Strictly speaking, then, the power partakes of a political character; and, on this account, it requires to be guarded in its exercise against the spirit of faction, the intolerance of party, and the sudden movements of popular feeling. The prosecution will seldom fail to agitate the passions of the whole community, and to divide it into parties, more or less friendly or hostile to the accused. The press, with its unsparing vigilance, will arrange itself on either side, to control and influence public opinion; and there will always be some danger, that the decision will be regulated more by the comparative strength of the parties, than by the real proofs of innocence or guilt. * * *

"But it may well be conjectured, that the real grounds were, to secure an impartial trial, and to guard public men from being sacrificed to the immediate impulses of popular resentment or party predominance. * * *

If a mere majority were sufficient to convict, there would be danger in times of high popular commotion or party spirit, that the influence of the House of Representatives would be found irresistible."

When I remember the whirlwind of passion which swept through the House of Representatives at the last session, when these impeachments were inaugurated, I tremble for the interests of my clients, and for the demands of justice. We are not yet so far removed from those exciting events, that we can hope to be entirely calm and self-possessed; but I appeal to your conscience as judges, against your prejudices as public men and politicians.

A court of impeachment ought to be in a great measure, unembarrassed by the strict technical rules which prevail in ordinary courts of justice.

From Story, 2nd vol. pages 228 and 235, sections 756 and 763, I read the following, having reference to this important point :

"The necessity of a numerous court for the trial of impeachments, is equally dictated by the nature of the proceedings. This can never be tied down to such strict rules, either in the delineation of the offense by the prosecutors, or in the construction of it by the judges, as in common cases serve to limit the discretion of courts in favor of personal security. There will be no jury to stand between the judges, who are to pronounce the sentence of the law, and the party, who is to receive or suffer it. The awful discretion which a court of impeachments must necessarily have, to doom to honor or infamy the most confidential, and the most distinguished characters of the community, forbids the commitment of the trust to a small number of persons. * * * * *

"In the next place, it is obvious, that the strictness of the forms of proceedings in cases of offenses at common law, are ill adapted to impeachments. The very habits growing out of judicial employments; the rigid manner in which the discretion of judges is limited, and fenced in on all sides, in order to protect persons accused of crimes by rules and precedents; and the adherence to technical principles, which, perhaps, distinguishes this branch of the law, more than any other, are all ill adapted to the trial of political offenses in the broad course of impeachments. And it has been observed with great propriety, that a tribunal of a liberal and comprehensive character, confined as little as possible to strict forms, enabled to continue its session as long as the nature of the law may require, qualified to view the charge in all its bearings and dependencies, and to appropriate on sound principles of public policy, the defense of the accused, seems indispensable to the value of the trial. The history of impeachments, both in England and America, justifies the remark. There is little technical in the mode of proceeding; the charges are sufficiently clear, and yet in a general form; there are few exceptions, which arise in the application of the evidence, which grows out of mere technical rules and quibbles." * * * * *

Now, Mr. President, I do not mean to insist that any principle of substantial right shall be disregarded, either in the admission of testimony or in the application of law. But you are clothed with a more enlarged and liberal authority, to be guided rather by the rules of common sense and impartial justice, than by the accurate forms

and rigid principles which always apply in the ordinary administration of criminal law. It is your privilege to judge of motives and purposes—to interpret them liberally and fairly, and to consider all the circumstances which attend a particular action, calculated either to aggravate or mitigate its criminality. Those broad and liberal principles are applicable alike in favor of the defense, as in aid of the prosecution.

But, Mr. President and Senators, it must not be supposed that a court of impeachment under our constitution, has any arbitrary power of itself, to declare that to be a crime or misdemeanor, which is not such at the common law. On the contrary, this court has no more authority, in that respect, than any other court. It can only administer the law and punish offenses; it can neither enact the one, nor define and establish the other. It is true, no positive statute is necessary in order to define impeachable offenses; they are already defined in that admirable and all-comprehending system of the common law which we derived from the mother country, and adopted in full, when we incorporated the peculiar proceeding by impeachment in our constitution. On this subject let us see 2nd Story, pages 264–5, and 267, sections 795–6–7.

“Resort, then, must be had either to parliamentary practice, and the common law, in order to ascertain what are high crimes and misdemeanors; or the whole subject must be left to the arbitrary discretion of the Senate for the time being. The latter is so incompatible with the genius of our institutions, that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice, which might make that a crime at one time, or in one person, which would be deemed innocent at another time, or in another person. The only safe guide in such cases must be the common law, which is the guardian at once of private rights and public liberties. * * * * *

“The doctrine, indeed, would be truly alarming, that the common law did not regulate, interpret and control the powers and duties of the court of impeachment. What, otherwise, would become of the rules of evidence, the legal notions of crimes, and the application of principles of public or municipal jurisprudence to the charges against the accused? * * * * *

The same rules of evidence, the same legal notions of crimes and punishments prevail. For impeachments are not framed to alter the law, but to carry it into more effectual execution, where it might be

obstructed by the influence of too powerful delinquents, or not easily discerned in the ordinary course of jurisdiction, by reason of the peculiar quality of the alleged crimes. * *

"Congress have unhesitatingly adopted the conclusion, that no previous statute is necessary to authorize an impeachment for any official misconduct; and the rules of proceeding, and the rules of evidence, as well as the principles of decision, have been uniformly regulated by the known doctrines of the common law and parliamentary usage. In the few cases of impeachments which have hitherto been tried, no one of the charges has rested upon any statutable misdemeanors. It seems, then, to be the settled doctrine of the high court of impeachment, that though the common law cannot be a foundation of a jurisdiction not given by the constitution or laws, that jurisdiction when given, attaches, and is to be exercised according to the rules of the common law; and that, what are, and what are not high crimes and misdemeanors, is to be ascertained by a recurrence to that great basis of American jurisprudence."

If, then, the principles of the common law prevail in cases of impeachment, we must look there to find what constitutes crime or misdemeanor. And now I assert, that according to the common law there can be no crime of any kind, or of any degree, without a criminal intent. This is a universal principle—it is the very substratum which underlies the whole system of criminal jurisprudence according to the common law. It is to be found in every elementary book, and is reiterated in every form, in all the courts where criminal proceedings are reported. "A breach of official duty done corruptly," is an offense according to the common law. The criminal intent, as well as injury to the country, is indispensable to constitute the crime.

Not only is it necessary that there should be the criminal intent, it is indispensable, also, that the intent be proved. I am well aware that in many cases, and especially in cases where a positive law is violated, the criminal intent will be presumed. But the effect of this legal presumption is merely to throw the burden of proof upon the accused. He may still show by positive testimony, if he can, that the criminal intent was wanting, and thereby relieve himself from the criminal charge.

* Wharton, 74, and Wharton 79; 34 Greenleaf, 15.

Mr. Stanton here read several passages from the arguments in the Senate of the United States, upon the occasion of the impeachment of Judge Chase, and also that of Judge Peck. The reasonings of the Senate, I cannot quote, because their debates, if they had any, were in secret session. But the points upon which the decision in both cases turned, are to be ascertained from the reported arguments for the prosecution and for the defense. From the passages read, he showed in both the cases referred to, the motives and feelings which prompted the action of the accused in the matters complained of in the articles of impeachment, were the chief, if not the only grounds of contest. No one seems to have entertained the idea that either one of the impeached officers, could be guilty of any crime or misdemeanor, unless a bad or criminal motive could be established.

But, I insist that the principle stated, although now here denied in argument, is virtually admitted by the very form of the articles of impeachment themselves. In all of them, except the 4th and 7th, there is contained a charge either of guilty knowledge or of fraudulent intent. As to the 4th and 7th articles, they are utterly defective for the very reason that they do not charge any criminal intent, nor indeed anything, which by any fair construction, can be made to constitute a crime or misdemeanor.

Mr. Stanton read the effective clauses in each one of the several articles of impeachment above mentioned, contending that these direct and pointed charges were inserted in the respective articles, because they were necessary in order to constitute the offense, and were therefore necessary to be proved. This is no mere technical requirement; it is matter of substance, essential to the proper ends of justice.

The first article of impeachment contains these averments: "That under said agreement, and with the full knowledge and consent of said Robinson, said Stevens proceeded to sell and deliver a large amount of said bonds, to wit: The amount of fifty-six thousand dollars of said bonds at the rate of eighty-five per centum on said amount of fifty-six thousand dollars, all of which was well known to said Robinson; that the said State was by said agreement defrauded out of its just rights, in that said State was entitled to receive the full amount for which said bonds were sold, while in truth, and in fact, with the full knowledge and consent of said Robinson, said bonds were sold for eighty-five per centum upon the dollar of the amount of said bonds."

Now, Mr. President, the gravamen of this charge is that the

defendant had "full knowledge" of the particulars of Mr. Stevens' negotiation, and, with that full knowledge, consented thereto. But nothing is further from the truth; for if there is any one thing fully established by the testimony in this case, it is the fact that John W. Robinson was deceived and misled, or, at least, kept in entire ignorance of the true character of the negotiation between Mr. Stevens and the Secretary of the Interior. I think the course indicated by the Attorney General is a virtual admission of this fact; for he informs me in advance, that he will read authorities to establish the principle that a violation of law necessarily implies a criminal intent. This would be wholly unnecessary, if either criminal knowledge or bad motive had been made to appear. But, in truth, such knowledge or such motive is not only not proved by the testimony; it is, on the contrary, actually negatived by it. I shall proceed now to consider the testimony as it bears upon this point. But before entering upon that subject, I will call your attention for a single moment, to the condition of the State and the low ebb of its credit, at the time of the transaction in question.

Mr. Stanton read several letters addressed to the Governor, complaining of the impossibility of obtaining supplies for the volunteers on the credit of the State, and urging the necessity for instant action in procuring funds or establishing an available credit. He also referred to the correspondence of the Governor with Duncan, Sherman & Co. of New York, and others, referring to the fact that the bonds of the State were without value in the market, and could not be disposed of at all. Within our borders, State scrip was selling at from forty to fifty cents on the dollar, and this, converted into bonds at seventy, brought the latter down to the low rate of from twenty-eight to thirty-five.

It was when the public credit had fallen to this deplorable condition, that the defendant was called upon to negotiate the bonds of the State, for the purpose of raising means to carry on the ordinary operations of the government. The Legislature was soon to meet, and there was no provision for the accommodation of the two houses, for stationery, or for the compensation of members. If State scrip was to be used, every thing would cost at least three times its cash value.

At this juncture, Mr. Stevens made a proposition for the purchase of the bonds. The Secretary of State and the Auditor, in their anxiety to effect a sale, endeavored to evade the limit imposed

upon them by the law authorizing them to negotiate the bonds. They adopted the view that the amount of \$50,000 could be sold without limit, according to the provisions of the first law, while the remainder was limited to seventy by the explicit terms of the supplemental law. They therefore agreed to sell \$50,000 at forty, and about \$25,000 at seventy, making an average of fifty. But the Governor, taking a different view of the law, refused to sanction this arrangement, and the negotiation was, for the time being, abandoned.

I am very free to acknowledge that, in my judgment, the construction placed upon the law by the Secretary and Auditor, was erroneous; but there is nothing to show that it was dishonest, or that they were actuated by any other motive than an earnest desire to replenish the treasury of the State. It is not at all strange or suspicious, that they should endeavor so to construe the law, as to enable them to sell at a rate considerably above the market value of the bonds. They could not then have known anything of the terms upon which Mr. Stevens subsequently sold to the Indian Bureau, nor indeed, of the fact that he had any prospect of selling them in that quarter.

It was at this juncture that the defendant, John W. Robinson, received letters from Senator S. C. Pomeroy, advising him to send on such bonds of the State as belonged to him individually, and informing him that there was a prospect of selling them upon advantageous terms. This circumstance sufficiently explains the fact which has been rather severely commented upon, that the bonds belonging to the State, or some of them, were sent on to Washington in advance of the defendants going. The Secretary and Auditor doubtless had some obscure idea, derived partly from Mr. Stevens and partly from Gen. Pomeroy, that the bonds could be sold at Washington. With that impression they went.

On their arrival at Washington, they made application to the proper source for information—to the Senators and Representative of Kansas. General Pomeroy advised these gentlemen to wait for the arrival of Mr. Stevens—he had been successful in selling the Kansas war bonds to the Government, and he was the proper person to conduct the pending negotiation. Accordingly, we find that the Auditor and Secretary immediately commence telegraphing Mr. Stevens to come on. The latter, however, took his own time, confident, I suppose, that he held the negotiation in his own hands. He had previously made a proposition for the sale of these very

bonds to the Secretary of the Interior, relying upon his ability to get control of them by the very fact that he had occupied, and, so to speak, forestalled the only market in the country, where they could be sold at anything like a fair rate.

It is not my business, nor is it important to the defense in this case, to discuss the conduct of Mr. Stevens. He is a Senator now sitting on this floor; and I may say without impropriety, that the Senate itself has not looked upon his proceedings as dishonest or dishonorable; otherwise, they would hardly permit him to occupy a seat, with a right to vote upon this trial. At the last session, after the development of this whole case, an effort was made to remove him, but it proved to be ineffectual.

One thing is certain, Mr. Stevens was the first to initiate the negotiation with the Secretary of the Interior. His genius conceived the enterprise, and his skill conducted it to a successful conclusion. The whole scheme was of his own invention, and he is undoubtedly entitled to the legitimate fruits of his exertions. If he had invented some mechanical contrivance for saving labor and effecting great results, he would have been entitled to a patent right, and might have derived immense profits from the community, and no one would question his integrity or honor. In this case, however, his projective faculties have taken a different direction. He takes advantage of the necessities of the State, and uses his information and his peculiar opportunities for his own individual advantage. Whatever else may be said, one thing is certain: Mr. Stevens did not profess to be acting for the benefit of the public. His own interests were paramount. He does not claim the character of a public spirited, disinterested patriot, who holds the interests of the State superior to all personal considerations, and all private gains. He has chosen his part; and doubtless he has done so with a perfect willingness to accept the consequences, both personal and political.

No one can tell, for no one has asked the question, what sacrifices Mr. Stevens was compelled to make in order to accomplish this negotiation. We know, at least, that he employed Mr. Corwin, on account of the supposed influence of that gentleman with the department. We also know the means used to get the influence and support of Gen. J. H. Lane. It does not appear how many other similar transactions were concluded in the process of the negotiation; but it is evident that this was one of those jobs, not unusual

at Washington, which are to be accomplished only by means of the most powerful influences, put in operation by the lavish and unscrupulous use of money. I doubt very much whether the result could ever have been accomplished without the application of such means. I do not mean to say that the President and Secretary of the Interior would not have preferred that the benefit of the negotiation should have enured entirely to the State. Doubtless, if the case had been fairly presented to them, they would have insisted upon this result. But the misfortune is, they could never understand—they were not permitted to understand all that was going on among the outside parties to this negotiation. The whole game was to weave such a web of plausible influences around the department, as to prevent the slightest suspicion of any wrong in any quarter.

Now it is perfectly plain that the defendant and his colleague were made the innocent dupes of this deep laid scheme. It was easy to conceal from them the terms of the negotiation. Neither Pomeroy, Lane nor Conway, knew these terms, although each one of them gave his influence to help the matter along. The Secretary of the Interior and Mr. Corwin both say the terms were not definitely fixed until about the close of the transaction.

Mr. Stevens testifies that he did not communicate the particulars to the defendants. It was obviously his policy and his interest to keep the particulars as much as possible to himself. He had proposed to sell to the government the whole issue of bonds by the State, amounting to one hundred and fifty thousand dollars. About sixty thousand dollars of this issue were outstanding. His purpose was to buy up these outstanding bonds, and this purpose would have been defeated if the particulars of the negotiation had been made public. There is testimony to the effect that the defendant was informed of offers having been made to the Commissioner of Indian Affairs of a large amount of these bonds at a low price. Publicity of the negotiations would have brought in more offers of the same kind, and it is apparent how seriously they would have interfered with the successful termination of the sale.

Herein is to be found the complete explanation of the expressions used by the defendant in his letters to his clerk, Mr. Weir, which have been proved in this trial. Those letters themselves, taken in connection with the other testimony, fully explain the considerations which induced the defendant to insist that no information should be

made public about the sale of the bonds. The whole spirit and tenor of these letters show the honest intentions of the defendant, and his earnest desire to relieve the State from her pecuniary embarrassments. There is not a single expression which indicates any corrupt personal interest in the negotiations. Remember, these letters were written in perfect confidence to an intimate acquaintance and an official associate. Had there been anything wrong, it would most probably have appeared here in the most unmistakable terms.

Mr. Stanton read extracts from the letters, and commented upon them in the spirit of the foregoing remarks, insisting, that, far from indicating corruption on the part of the defendant, they gave evidence of integrity, good faith, and earnest solibitude for the welfare of the State.

All the occurrences which attended the progress of the negotiation, seemed to co-operate in keeping up the delusion under which the State officers were acting. At one time the President refuses to approve the purchase of the bonds. At another, Gen. Lane makes fierce opposition. The President consented to the arrangement only upon condition that no members of his Cabinet, and no influence from Kansas should oppose it.

Now, Mr. President and Senators, I have no hesitation in saying, (and the experience of every man who knows the true state of things in Washington will bear me out in the statement,) that Mr. Stevens could have prevented this negotiation, if the defendants had not consented to his terms. It was *his* proposition then pending before the department. He had the option to withdraw it, and, by indirect influences, to oppose and defeat the ultimate sale. A very slight obstacle would have accomplished this defeat. I say nothing of the propriety and fairness of such action on his part; I only say that he had so managed the whole affair that he had the issue in his own hands.

When Mr. Stevens demanded that the Secretary and Auditor should allow him all over sixty cents which he might obtain for the bonds, and they indignantly refused the proposition, taking back the bonds and canceling the receipt, there is no reason for supposing that there was any sham or pretense in the incident. Mr. Stevens felt and knew his power. He had the parties completely under his control, and he felt perfectly safe in pushing the matter to this extremity. The Secretary and Auditor must either go home without money, or they must come to his terms. In this extremity, the advice of General Pomeroy was taken, and he advised that

they should take sixty cents, if they could get no more. This he admits in his own testimony, averring at the same time that he did not know the terms of Mr. Stevens' sale to the department, nor the limitation of the law, prohibiting a sale at less than seventy cents.

Such, Mr. President and Senators, are the facts in this case. I presume no man in this body believes that either the Secretary or Auditor acted corruptly in this matter. I have heard no such intimation. All the testimony concurs in disproving it. The character of the parties, their manner and bearing, their explanations all concur in producing the conviction that if they have done wrong at all, that wrong was done ignorantly and innocently. The case is like that of one who acts honestly upon wrong advice, given by an attorney. Gen. Pomeroy was in a situation to know all the exigencies of the case. He was in the most friendly relations with the government, and he advised the parties to accept the terms proposed by Mr. Stevens. Unless you can deliberately come to the conclusion that these officers made the advice of Gen. Pomeroy a mere pretext, you must acquit them.

But let us look at the transaction a little more narrowly. Witnesses speak of a sale of the bonds to Mr. Stevens at sixty cents on the dollar. This was not the legal effect of the transaction. Messrs. Robinson and Hillyer constituted Mr. Stevens their agent for the sale of the bonds. In their letter of attorney, they recited the law under which they acted, and agreed to give him as compensation for his services, all that he might obtain beyond sixty cents. The law was binding upon him as well as upon them, and he had full notice of its provisions.

Now, it is too plain for argument, that the original law authorized the expenses of the negotiation to be paid out of the proceeds, and the supplemental law does not alter or repeal this provision. The requirement that the proceeds of the sale shall be paid into the State Treasury, is to be construed to mean that the *net* proceeds are to be thus paid. If the defendants had gone into Wall street, New York, and employed a broker at a compensation of one fourth of one per cent., and this amount had been deducted from the proceeds, no one would have complained. But the defendants have allowed ten per cent. (if they supposed Stevens would sell at seventy,) or twenty-five per cent, if they knew he was getting eighty-five.

This is the true legal effect of the arrangement. The defendant did not authorize Stevens to sell at less than the limitation of the law; but they agreed to give him, as compensation for his services, all that he should receive over sixty cents. Technically and strictly, this was not a *violation* of the law. It may have been an *abuse* of their powers under the law. But it is criminal or not, according to the circumstances and exigencies of the case. If they knew (as they did not) that Stevens was getting eighty-five cents, then they agreed to give him twenty-five per cent. If they supposed he was getting only seventy, then they intended only to allow him ten per cent. Now, it will be readily seen that the *knowledge* of the parties is all important, in fixing their guilt or innocence. I grant that an abuse of their powers under the law may be so flagrant, and the allowance so extravagant, that the transaction would of itself import criminality. But no such criminality can be imputed, unless the parties accused were acting with a knowledge of the facts. If they were deceived and misled, however erroneously they may have acted, they cannot properly be convicted of a crime or misdemeanor.

It may be said the parties were criminally negligent in not seeking correct information from the proper quarter. This, also, is a question of fact which must be determined by all the circumstances. One who knows the difficulty of access to the departments at Washington, will not be surprised that these defendants relied entirely upon their Senators and Representatives. These have access to the departments at all times, and they have the means in their respective houses, of instituting inquiries into all the most secret operations of the government. I insist that these two inexperienced gentlemen, fresh from the prairies of Kansas, were perfectly justifiable in relying upon the advice of the public agents of the State at the seat of government.

Mr. Stanton next considered the specific charges contained in the third and fifth Articles of Impeachment, relating to the removal and subsequent payment of the coupons due on the 31st of December last. He claimed that the charge was entirely unsustained by the proof, inasmuch as the bonds were actually sold before the coupons were due. It is not competent to try a defendant upon one charge, and convict him upon another, wholly different in its character. But he insisted that the true ground of defense, upon these particular charges, is the entire ignorance of the parties as to the with-

drawal of these coupons, and their want of any participation whatever in the benefit of the arrangement. He asserted that coupons are not usually withdrawn from bonds before their maturity, and that the defendants therefore cannot be presumed to know any thing so much out of the ordinary course of such transactions.

Upon the sixth Article of Impeachment, little was necessary to be said. The charge seemed to be based upon the idea that a paper could only be published where it was actually printed; whereas, the place of publication may well be, and often is, different from the place where the printing is actually done.

It could not be a matter of any consequence to the State where a paper was actually printed, so that it was circulated among the people of the county in which the information was to be promulgated. The assertion that the State had been defrauded was, therefore, wholly false. But, in fact, the testimony showed that this bill was approved by Mr. Weir, the clerk in the Secretary's office, and it does not even appear that the Secretary himself ever saw it.

Little need be said of the last Article, in reference to the withdrawal of the bond of Trask & Lowman. That bond was never favorably approved by the printing board. It does not appear that it was ever seen, much less approved or filed, by the defendant. There is no pretense that, in either of these cases, the defendant was corruptly interested in the transactions to which they refer. The business seems to have been done altogether by Mr. Weir, without any participation on the part of the Secretary.

Upon the seventh Article of Impeachment, based upon the countersigning, by the defendant, of the ten per cent, bonds, usually termed "the war bonds," the counsel referred to the act of Congress of March 24th, 1844, authorizing "a loan for a sum not exceeding twenty-five millions of dollars."—3d Stat. at Large 111. He read the first two sections of this law, and compared them with the first two sections of the law of Kansas, authorizing a loan of twenty thousand dollars. The two statutes are substantially identical, in the legal effect of the language adopted. In the former, the President is authorized "to borrow, on the credit of the United States, a sum not exceeding twenty-five millions of dollars;" in the latter, "the Treasurer of this State is authorized to borrow the sum of twenty thousand dollars, or so much thereof as may be necessary." By the second section of the first act, the Secretary of the Treasury was empowered to issue certificates of stock, "*for the sum to be bor-*

rowed by this act;" while by the second section of the law of Kansas, the Treasurer is directed to prepare bonds "*to the full amount of said loan.*" These are the operative words of the two laws respectively, and, so far as I can see, they are not, in any respect, qualified by any other provision of the respective statutes. The only clause in the act of Congress, which might be tortured into such a qualification, is found in the concluding words of its second section, in which the Secretary of the Treasury is required to lay before Congress "an account of all the moneys obtained by the sale of the certificates of stock, in manner aforesaid, together with a statement of the rate at which the same may have been sold." But it is plain that a mere requirement to *report* the rate of sale, does not, of itself, *fix* the rate, or in any way qualify the authority to make and sell certificates of stock, "for the sum to be borrowed."

Now, by reference to the report of the Secretary of the Treasury, which will be found in the Book of Finance, it will be seen that a contract was made with Jacob Barker for five millions—part of this twenty-five million loan—at the rate of eighty-eight cents on the dollar, with the condition that, if any part of the same loan should subsequently be sold, upon terms more favorable to the lender, the benefit of the same terms should be extended to the persons then holding the stock of the first issue. Portions of the twenty-five millions were afterwards sold at eighty cents on the dollar, and supplemental stock for the difference was thereupon issued to the holders of the first issue; so that all the stock sold was virtually sold at eighty cents on the dollar.

Senator McDowell.—Will the gentleman allow me to ask whether more than twenty-five million of stock was issued?

Mr. Stanton.—The whole amount of this loan was never taken, for the reason that the Government was bound by the condition above mentioned; and, having taken in payment for the loan, suspended bank paper, which was twenty-five per cent. below par, it was claimed that the Government was liable to make good this difference to the holders of the first issue of stock. To avoid these troublesome questions, a new loan was authorized.

But the Senator will easily see that the fact, that the whole twenty-five million of stock were not issued, can make no difference in point of principle. The question is, whether the law authorized the issuance of sufficient stock to produce the amount of twenty-five millions of

dollars, and whether more than the nominal amount named might have been put upon the market.

The Secretary sold at eighty, and issued stock accordingly. If he had obtained the whole twenty-five millions, he would have issued thirty millions of stock. If he got only five millions of money, he must have issued six millions of stock; and so in proportion.

Now, if this precedent is good for anything, it shows clearly that, under the law of Kansas, the Treasurer was fully authorized to issue bonds sufficient to produce the sum authorized to be borrowed, viz: twenty thousand dollars. Not being able to sell the bonds at par, he must necessarily issue more than that nominal amount of bonds in order to realize the sum required; therefore, it was no violation of law to do so.

The Treasurer was required to prepare the bonds, and he alone was authorized to dispose of them. The other State officers were only required to authenticate the bonds which the Treasurer was to prepare and present for their signatures. The defendant, at present on trial, was only required to perform the subordinate act of *countersigning* them. He would not be guilty of an impeachable offense, even if the Treasurer had issued more bonds than the law authorized.

It is an extraordinary feature in this case, that the Treasurer, who prepared the bonds and sold them at forty cents on the dollar, without any participation on the part of the other officers, has not been impeached or even censured. I do not admit that any crime has been committed at all; but if any crime has been committed, undoubtedly the Treasurer is, by far, the greatest criminal. It has not been shown that even he had any corrupt or criminal motive in disposing of the bonds; and it is certain that he obtained the full market value for them. The Governor, Secretary of State and the Auditor had no connection whatever with the transaction. How they can be, to any extent, criminated, it is utterly impossible for me to understand. The failure to impeach the real offender, if there be any at all, is a virtual admission that the charge against the defendants is trivial and incapable of being sustained.

In conclusion, Mr. President and Senators, I have only to ask whether you can say, beyond all reasonable doubt, that any one of these charges has been fairly made out by the testimony. Can you say, under all the responsibilities of your position, that what was done by these officers, was not, in their judgment at least, for the best interests of the State? By the sum realized, the public credit

has been greatly improved; and, if these proceedings had not been instituted, and the conclusion of the negotiation prevented, the business of the State would now be transacted upon a basis of cash. The accruing taxes would have paid all liabilities, and there would have been no probable interruption of our future progress.

I do not pretend to say that the transaction in Washington ought to be approved. But I do say, with great confidence, that the Auditor and Secretary must have come home without any money, if they had refused to accept such terms as Mr. Stevens chose to exact. They are entirely free from all taint or suspicion of corruption; and, whatever may be your judgment, they will walk forth from this tribunal, conscious of their own integrity, self-sustained, even in the face of a conviction, and able to meet their fellow-citizens serenely, in spite of your condemnation.

On motion, the Senate adjourned.

AFTERNOON SESSION.

TWO O'CLOCK P. M.

Senate met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Absentees—Messrs. Hoffman, Holliday, Lynde, Morrow, Sleeper and Spriggs.

[ARGUMENT OF HON. S. A. STINSON.]

Mr. Stinson, in closing the argument on the part of the State, said:

MR. PRESIDENT, AND MAY IT PLEASE THIS HONORABLE COURT:

It is with no ordinary feeling of diffidence that I come to the performance of my appointed task. The army of able counsel on behalf of the defendant, of great learning, large and varied experience, and high and well established fame, as well as the magnitude of the issue involved, may well suggest the wish that the weighty responsibility of concluding the argument, on the part of the prosecution, had been intrusted to an older and an abler man; but my official position, and the wishes of my colleagues, leave me no choice.

I should be doing violence to my own feelings, did I not, in the outset, pause to pay the humble tribute of my admiration to the distinguished eloquence which has been evoked in aid of this defense ; and if, in anything, I shall have occasion to differ from the arguments or conclusions of my opponents, I shall do so with becoming deference, and only when the truth, which is more to be revered than age, position, or eloquence, shall seem to bid me do it.

John W. Robinson, Secretary of State of the State of Kansas, has, by the House of Representatives, been, at your bar, impeached for misdemeanor in office; and it shall be my duty to attempt to show that, by evidence, the House has made good that impeachment.

I am aware that, in trials of this peculiar and most important character, it is a time-honored and most respectable custom for counsel to give an historical and argumentative review of the origin and history of this judicial anomaly—proceeding by impeachment. If I shall honor this custom by its breach, I would most respectfully beg this honorable Court to attribute my apparent short-coming to my respect for your intelligence and my sympathy for your long suffering, rather than to a lack of sufficient learning and ability. There is no such mystery in these proceedings, or in your office, as to require elaborate explanation to those who are familiar with the ordinary practice and rules of our courts, and who are well grounded in the eternal principles of truth and justice.

I feel that no words of mine are necessary to impress upon this honorable Court a proper sense of the solemn responsibility devolved upon you. All that this world has for this defendant, is here staked upon the issue. The severe eye of a jealous people scans your action, that no feeling of sympathy or compassion, or other unworthy consideration, swerve you from the plain line of duty. The defendant, the people, posterity and your God, will hold you, and each of you, to a strict accountability for the manner in which you shall discharge this most important trust. In this prosecution, I have no personal or partizan prejudice to indulge. I come here, with my colleagues, representing the honor and the interests of the people of the State; and feeling that if, by this investigation, this defendant's innocence appear, then will the people have cause for joy; while his crime and his disgrace will bring shame upon the name of Kansas. We seek not this man's ruin. • All we have to do—all our position will warrant us in doing—is to elicit the whole truth in regard to the matters with which he stands charged; and then, if

the law and the evidence pronounce him guilty, his punishment must follow, and he and we all must suffer for his crime. Even as the sins of the father are visited upon the children, so is the disgrace of the ruler visited upon the people. Every man in Kansas to-day feels a sense of personal humiliation, when he remembers that, in the first year of the existence of Kansas as a State, three of her chief executive officers were impeached for misdemeanor in office. Our good name abroad has suffered, and is still suffering, from this obloquy. It has given new life to the enemies of Kansas everywhere, and confirmed their malicious slanders upon our people; and now, if this defendant, and those who, with him, stand accused at your bar, can go forth from this trial free from taint of crime or dishonor, there is not an honest man in the State, or a friend of Kansas anywhere, who will not rejoice at the result. But the evidence and the judgment will go forth to the world together; and, if the evidence shows his guilt, and your verdict acquits him, you, and the people, will become, in the eyes of all the world, not only sharers in his disgrace, but participators in his crime.

The House of Representatives, here prosecuting, does but discharge a duty to the people, to posterity and to constitutional liberty; for it is standing guard upon the only barrier which the Constitution has erected between a free people and the licentiousness of their rulers.

As this case now stands, it is disembarrassed of many of those delicate and difficult questions which have almost invariably arisen in proceedings of this character. For the purposes of this argument, it may be taken as conceded that this defendant is an officer liable to impeachment; that this Court has jurisdiction to try him, and that the articles preferred by the House of Representatives are sufficient, if proved, to warrant his conviction. Before I proceed to discuss the evidence, I will call your attention to some propositions of law, to which a merited prominence has been given by the defendant's counsel. It is essential, before you can convict, that we prove that the defendant has committed a misdemeanor, substantially as charged in some one of these articles. For the meaning of the word misdemeanor, as used in our Constitution, we are, by common consent, remitted to the common law. Blackstone says: "A crime, or misdemeanor, is an act committed, or omitted, in violation of public law, either forbidding or commanding it." This definition does not, in words, give the cardinal element of the offense—the unlawful intent. I freely concede to my opponents all the impor-

tance which they have here labored to give to this element, primarily essential as it is to constitute a crime or misdemeanor. It is the unlawful intent, manifesting itself through unlawful acts, which the law seeks to punish. I have seen, from the very outset, how ingeniously and speciously this question of intent was to be distorted to suit the purposes of counsel; but I mistake the intelligence of this honorable Court, if I fail to disentangle you from the web of sophistry, which the gentlemen, with so much skill and pains, have woven. I think that, in their interpretation of the law of intention, they must have relied, not only upon that weight which their solemn and impressive utterance and great legal reputation would give to their views in the minds of those who were not theoretically versed in the intricacies of the law, but also somewhat upon the inexperience of their adversary. How certainly they have abandoned those pleasant "ancient ways," of which Gov. Stanton spoke so feelingly, in another branch of this case, and started out upon a new and unbeaten track. They would make this a pure question of conscience. The law may have been violated by this defendant; he may have intended to do the act, which is a violation of law; he may have intended to violate the law; the public may have suffered great wrong by his unlawful act; and yet all these elements of a crime or a misdemeanor are not sufficient, unless we can show the existence of some purpose which, independent of the violation of the law, involves moral turpitude. And this strange and startling doctrine is sought to be fortified by authority. I see before me a volume of Greanleaf on Evidence, from which the gentleman read; and, with the permission of the Court, I will read, from this book, an extract which has heretofore been cited. I read from 3d vol. Greanleaf on Evidence, sec. 13:

"Another cardinal doctrine of criminal law, founded in natural justice, is, that it is the *intention* with which an act was done, that constitutes its criminality. The intent and the act must both concur to constitute a crime. *Actus non facit reum, nisi mens sit rea*. And the intent must therefore be proved, as well as the other material facts, in the indictment. The proof may be either by evidence, direct or indirect, tending to establish the fact: only inference of law from other facts proved. For, though it is a maxim of law as well as a dictate of charity, that every person is to be presumed innocent until he is proved to be guilty; yet it is a rule, equally sound, that every sane person must be supposed to intend that

which is the ordinary and natural consequence of his own proposed act."

The intent—that is, the intent to do the act—and the act must both concur. It is not even necessary that a person should intend to violate the law in order to render himself amenable to its penalties. If a man even be ignorant of the law, and do an act in violation of its provisions, *intending to do the act*, he is answerable, criminally. The gentlemen have, in their argument, confused intention with motive. The motive which induces the helpless vagabond to steal a loaf that his little ones may not die of hunger, may, in the sight of God, wipe out the transgression it induces; but so poor and inflexible are human laws, that we cannot go behind the intent to steal, to ascertain the motive which prompted the theft. The law deals not with the individual consciences of men; its standards of right and wrong are arbitrary, and of its own creation. When it prohibits an act, the man who intentionally does that act comes under its ban. The necessities of government and society demand that it should be so, or else every man will become a ban unto himself. The infirmities of our finite natures set bounds to human investigation, and psychological science has not yet even pretended that it could dive down into the hearts of men, and drag their black thoughts up into the clear light of day. Even the martyr who, firm in his convictions and in his faith, braves the wrath of the violated majesty of the law, rather than peril his soul by yielding obedience to what he believes its unholy commands, must be content to submit to earthly punishment, and look, for his recompense, to that great future, when the disembodied spirits of men shall come up for judgment, and the innermost recesses of the heart shall reveal its every motive and thought. The law, in respect to this vexed question of intention, is simply this and nothing more: it being established that an act has been committed in violation of law, it must further be shown that the person charged intended to do the act. With his motive, the law has nothing to do; it deals solely with his unlawful intention. The lack of a motive to commit a crime is sometimes urged in argument to show that the defendant has not done the act complained of; but never before was a corrupt motive made the essential test of criminality.

These propositions are of especial force in such cases as the one at bar. The nature and importance of the trusts reposed in a public officer, require that he should be held to the strictest accountability;

and it is a general doctrine, which cannot be controverted, "that whenever the law, statutory or common, casts on one a duty of a public nature, any neglect of the duty, or act done in violation of it, is indictable;" and, if indictable, then it must be because it is a crime or a misdemeanor—these two words being convertible terms as used in the Constitution. Under an indictment, for that violation of public duty of which we here complain, the man would be laughed to scorn, in any court of justice, who should ask that the judge charge the jury that, unless they should find, from the evidence, that there was some moral turpitude—some actual intention to cheat the State, and to receive the proceeds of the fraud—then they must find for the defendant. The charge would be: "The law prohibits this defendant from selling the State bonds at less than seventy cents on the dollar, and, in order to convict, you must find, from the evidence, that the defendant sold the bonds for less than seventy cents, and that he intended to sell them for less than seventy cents;" and if you, as judges of the law, find this prohibition, then you must proceed to inquire, in regard to the facts, as I have just indicated. As I have before intimated, ignorance or mistake of law will excuse no one from the penalty for the breach of it. Even though a person may not know of the existence of a law prohibiting a certain act, yet, if he intentionally commit that act, he must answer criminally. This proposition goes even to this extent, as laid down in Greenleaf on Evidence, vol. 8d, sec. 20:

"And the rule is applied to foreigners, charged with criminal acts here, which they did not, in fact, know to be such, the acts not being criminal in their own country."

The only exception to this rule, of which I am aware, is one rather intimated than affirmed, that misapprehension of law may sometimes be shown to repel the charge of corruption in an officer, whose duties require the exercise of a discretion, and not even then when "the mistake is induced by gross ignorance and carelessness, partaking of a criminal quality." So that even if it were here established by the testimony that this defendant acted under a mistake of law, it could not shield him, for his duties, in the premises, were purely ministerial, so far as the limit on the price of the bonds is concerned; and the mistake, if any such there was, was of that gross character as to partake of the criminal quality—so gross that even the ingenuity of counsel fail to suggest even a plausible ground for his pretended construction of the law. In the exercise of your judicial functions, you are not, and cannot be, absolved from the

binding force and effect of these essential and primary principles in the administration of justice, without which all legal restraints will be loosened, and society dissolved into its original elements. Illustrations are hardly needed to show how weak and desperate is this attempt to distort the law; yet take the case of the ignorant man arraigned on charge of a violation of the license law, and he pleads that he sold the liquor in his dwelling-house, and introduces his own frequent declarations to show that he did not construe the law to prohibit the sale in a private house. These distinguished lawyers would hardly insist that this was a good defense. Following the precedent here sought to be established, the liquor seller might proceed to show that his motive was good, and prove, by a physician, that the man to whom he sold, needed the stimulant. How absurd these propositions sound when practically applied; and yet these absurdities are involved in the legal argument of this defense.

I have thus attempted to explode these fallacies, not that the prosecution has need here to insist upon any rigid rule, but that such legal heresies might not pass unchallenged. I regret that I am compelled thus rudely to assail the law laid down by the defense, as my distinguished friend, Gov. Stanton, seemed, by some passing remarks, to feel that his legal opinions had hardly been received with the deference due their source, and to entertain, almost, a feeling of personal grievance at being arrayed against such pigmies as the humble conductors of this prosecution. That due weight might be given to his views, he has kindly and considerately told you that he once occupied the most responsible position of chairman of the judiciary committee of the House of Representatives of the United States; and here modestly, and with a tender pity for our weakness, I doubt not, he paused, leaving to me the pleasant task of recounting some other of the honorable positions he has held. His name may be found upon that memorable roll of decapitated martyrs—the Governors of Kansas; and he has been—*almost*—a Senator of the United States from the State of Kansas. With becoming modesty we acknowledge our weakness, and here gratefully own that whatever of credit or reputation may attach to us in this proceeding, will be but a reflected luster from the gentlemen who have so ably conducted this defense.

There is one other preliminary matter deserving some slight notice, before I proceed to examine the evidence. My opponents have here volunteered a sort of half-way defense of Hon. Robert S.

Stevens, who has played a somewhat conspicuous part in this investigation. Mr. Stevens is not on trial. I am neither disposed to assail or defend him. It may be that in the purlieus of those departments, of whose corruption we have heard so much—it may be that in the gambling whirlpool of Wall street, such transactions as those with which this trial has implicated Mr. Stevens, are most righteous and commendable. I am not here to test the elasticity of a broker's conscience. By the standard which these gentlemen have sought to erect, I presume Mr. Stevens' *intentions* were good. But we have been told that Mr. Stevens possessed great skill, experience and learning in the matter of wheedling the public departments at Washington. That, like inventors in mechanics, he was entitled, in morals at least, to a patent for his method of selling bonds, whereby he realized all the way from twenty-five to fifty-five per cent. The gentleman warmed under the inspiration of the subject, and likened Mr. Stevens to the inventor of the steam engine. For a moment I was captured by the idea; but fortunately remembered Gen. Butler's remark to the city council of New Orleans, in regard to some of its action. He admitted that its novelty would entitle the inventor to a patent, but he doubted its usefulness. The most appropriate illustration was the apple-paring machine, which the gentleman so glowingly and graphically described as a little instrument, upon which you placed an apple, and, by a few turns of the wheel, peeled it handsomely. Stevens' invention is similar in its construction, if not in its effect. He put the State on his little machine, and, with a few turns of the wheel, he peeled it to the core. So much, in passing, for Hon. Robert S. Stevens.

I propose to discuss the several Articles of Impeachment, so far as they relate to the seven per cent. bonds, together, applying such testimony to each as shall, in my judgment, go to sustain that specific charge. The main features of all this class of articles are the same.

After repeated failures, and when the most hopeful had begun to despair, Kansas was suddenly admitted into the Union—the first fruit of the rebellion. No provision had been, or could have been made, to meet, by legitimate revenue from taxation, the expenses incident to putting in active operation the new form of government. In this emergency, the Legislature passed an act authorizing the issue and negotiation of one hundred and fifty thousand dollars of the bonds of the State. This law reads as follows:

CHAPTER VI.—AN ACT to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State.

Be it enacted by the Legislature of the State of Kansas :

Section 1. That Austin M. Clark and James C. Stone be and they are hereby authorized to negotiate the bonds of this State to the amount of one hundred and fifty thousand dollars, immediately upon the passage of this act, bearing a rate of interest not exceeding seven per cent. per annum, payable semi-annually in the city of New York, which loan shall be paid and reimbursed in fifteen years from the time when the same is negotiated; which money, so borrowed, shall, on being first duly appropriated therefor, be applied to the defrayment of the current expenses of the State of Kansas. That said commissioners are hereby directed to inform the State Legislature, within seventy days from the passage of this act, the terms on which they can negotiate the loan proposed, and no final action shall be had by said commissioners until they shall receive the consent of the Legislature, or, in case of the adjournment of the Legislature, the consent of the Governor, Auditor and Secretary of State, or a majority of them, to the terms proposed.

Sec. 2. That the bonds mentioned in section first of this act shall be made with coupons attached, issued and signed by the Treasurer, and countersigned by the Governor and Auditor, and shall have the great seal of the State attached, which bonds shall specify the rate of interest and the time when the principal and interest shall be paid, and each bond so issued shall not be for a less sum than five hundred dollars, and shall specify thereon to whom the same shall be made payable.

Sec. 3. That the proper officers of the State of Kansas shall cause to be levied and collected, each year, with the other taxes of the State, a sufficient amount to pay the interest as the same accrues, on all bonds issued under the provisions of this act, and, also, to levy and collect a tax sufficient to create a sinking fund for the final redemption of such bonds, which taxes, when paid into the State Treasury, shall be and remain a specific fund for said purposes only, and shall not be appropriated or used in any other way except as is hereinafter provided.

Sec. 4. That the tax above mentioned, in section three of this act, levied and collected to create a sinking fund for the final redemption of all bonds issued under this act, shall be invested annually, by the Treasurer of the State of Kansas, in the bonds of the

United States, and in bonds of the State of Kansas, at their market value on the New York City Exchange, or, in case the same cannot be obtained at par or under par, then, and in that event, he is authorized to invest the money arising from the said tax, annually, in the bonds of other States on which the interest is paid promptly and regularly, and which bonds he shall procure at as low rates as the same can be purchased, which bonds shall be held and retained by the Treasurer until the principal of the bonds issued under this act shall become due, and shall then be disposed of at the highest market rates, and the proceeds of the sale of such United States or other State bonds, purchased as aforesaid, shall be appropriated to the redemption of the bonds issued under this act.

Sec. 5. That whenever the interest on the above mentioned bonds shall become due, the same shall be paid by the Treasurer of the State, upon presentation at such banking house, in the city of New York, as may be designated in the bonds issued under this act, and the coupons for the interest then due shall be taken up by said Treasurer, canceled and filed in his office.

Sec. 6. The Treasurer of the State is hereby authorized, and it is made his duty to obtain, blank bonds, with suitable devices to prevent counterfeiting, and of such material as he may deem proper.

Sec. 7. That all money realized by the State of Kansas from the sale of bonds issued under this act, after paying all the necessary expense of issuing the bonds and the negotiation of them, be and the same is hereby appropriated to the exclusive purpose of defraying and paying any and every legitimate and lawful expense that has been incurred or may hereafter be incurred in administering and carrying on the State government, and shall be and remain a specific fund for these purposes only, and shall not be appropriated or used for any other purpose.

Sec. 8. The credit of the State is hereby pledged to the payment of the interest and principal of the bonds mentioned in this act, as the same may become due.

Sec. 9. That as soon as the said persons, mentioned in section first of this act, shall succeed in negotiating the said loan, they shall forthwith pay the same into the treasury of the State.

Sec. 10. That, before entering upon the duties herein specified and confided to them, the said Austin M. Clark and James C. Stone shall execute their bonds to the State of Kansas, with good and

sufficient securities, to be approved by the Governor of this State, in the sum of three hundred thousand dollars, conditioned that they will well and truly perform the trusts herein reposed, and pay into the Treasury of the State of Kansas all sums of money they may receive on the sale of said bonds.

Sec. 11. That, in case said Clark and Stone shall fail to negotiate the loan authorized by this act, upon the terms authorized by this act, that then, and in that case, they shall return said bonds, or so many as remain undisposed of, to the Treasurer of State, who shall safely keep the same.

Sec. 12. It shall be the duty of the State Auditor to register, in a book provided for that purpose, the bonds issued under this act, which said registry shall show the date, number, amount, and to whom is made payable each of said bonds.

Sec. 13. That this act shall take effect from and after its publication.

Approved May 1st, 1861.

I hereby certify that the above bill became a law by publication in the *Topeka Record*, May 3d, 1861.

J. W. ROBINSON,
Secretary of State.

Mark the peculiarly stringent provisions of this bill. The commissioners, men of known wealth, probity and honor, are intrusted with no absolute discretion in the matter. During the session of the Legislature they were to report to that body, and receive its assent before any negotiation could be made, and after the adjournment of the Legislature the State officers were substituted in their stead. Even with all these restrictions and limitations upon their power in the premises; so cautious and prudent was the Legislature, that these commissioners were by the law competent to give a bond in the sum of three hundred thousand dollars. I shall have occasion hereafter to contrast the prudence and caution of the Legislature with the conduct of those to whom these bonds were afterwards intrusted. Messrs. Stone & Clark having, for some cause, failed to negotiate these bonds, a supplementary act was subsequently passed, which is as follows:

CHAPTER VII.—AN ACT supplementary to "An Act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas to defray the current expenses of the State," approved May 1, 1861.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The Treasurer of State is hereby authorized and

directed to prepare one hundred thousand dollars of the bonds provided for in an act entitled "An Act to authorize the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State, in sums of the denomination of one hundred dollars each."

Sec. 2. That the Governor, Auditor and Secretary of State of the State of Kansas, or a majority of them, are hereby authorized and empowered to negotiate and sell the bonds of the State, the issuance of which is provided for in the act authorizing the negotiation of one hundred and fifty thousand dollars of the bonds of the State of Kansas, to defray the current expenses of the State, approved May 1, 1861; *Provided, however,* That no bonds shall be sold for less than seventy cents on the dollar, and that the proceeds arising from the sale thereof, shall be paid directly into the Treasury of the State.

Sec. 3. It shall be lawful for the Treasurer to receive, in payment for said bonds, the circulating notes or bills of any specie paying banks of any State, and, also, such warrants as may be issued to the members and officers of the Senate and House of Representatives, Justices of the Supreme and Judges of the District Courts, Reporter of the Supreme Court, for services rendered or to be rendered when said services are performed, and, also, such other amounts as may be provided in the general appropriation bill for the current year; but this act shall not be so construed to permit payment to be made in the bills of any banking institution now in existence in this State.

Sec. 4. That the Treasurer shall be and is hereby authorized, upon presentation of the warrants mentioned in the third section of this act, to receive the same at par and issue the bonds mentioned in the first section of this act, at their current value; *Provided,* That this shall not be so construed as to authorize said Treasurer to dispose of said bonds at a price less than seventy cents on the dollar.

Sec. 5. That this act shall take effect and be in force from and after its publication, and the Secretary of State is directed to publish the same, immediately upon its approval by the Governor, in a daily paper published in Topeka, which shall constitute such publication.

Approved June 3, 1861.

Thus, then, the Governor, Secretary of State and Auditor, were

intrusted with these bonds. An amount of about sixty-two thousand dollars of them was used in redeeming State scrip, in accordance with the provisions of the supplementary act. The balance remained in the hands of the State officers to be sold. The first step is to intrust Mr. Dutton with some twenty-nine thousand dollars. This seems to have been a sort of venture, without any specific object. If I remember rightly, they cautiously took Dutton's receipt, so that the State might not suffer. Mr. Dutton, somewhere in the East, casually meets Mr. Stevens, who had just concluded a highly satisfactory operation in the way of our war bonds, and half jocularly, it would seem, hands over the twenty-nine thousand dollars of bonds to him, and Dutton carefully takes Stevens' receipt for them. Stevens goes to Washington and attempts to sell these bonds and fails. On his return, at Dayton, Ohio, he meets a mysterious gentleman of the name of Corwin, to whom he intrusts the twenty-nine thousand dollars worth of bonds, and I presume, takes Corwin's receipt. Thus from State officers to Dutton, from Dutton to Stevens, from Stevens to Corwin your bonds were bandied about from hand to hand, from East to West—these bonds which your Legislature refused to intrust to commissioners of its own appointment, save upon condition that they should give a bond in the sum of three hundred thousand dollars. Right here, without going one step farther in this case, is there not that culpable carelessness which partakes of the quality of crime. Mr. Stevens then comes to Kansas, and for the first time in this transaction, we find the tempter and the tempted together. He proposes to buy some thousands of State bonds, and offers, in the face of the plain letter of the law, forty cents on the dollar. Then it is that those conversations of which we hear so much were had. Then it is that the Secretary and Auditor begin to raise around their contemplated scheme the halo of their good intentions. Then it is that John W. Robinson tells George S. Hillyer, and George S. Hillyer tells John W. Robinson, against all the recognized canons of interpretation, that the Legislature did not intend, what its words express. They entertain the proposition of forty per cent.—they consent to it, and this most illegal and iniquitous arrangement is, by their own testimony only defeated by the failure to procure the Governor's signature. Read the second section of the supplementary act. I have not the heart seriously to argue the proposition that these men never labored under any such insane delusion. They

can read, and yet they pretend that they thought that there was a limit on the one hundred thousand one hundred dollar bonds, and none on the five hundred dollar bonds; and they proposed to arrange the matter, so as to make the one hundred dollar bonds bring seventy per cent. at the expense of the others. Even this of itself was a fraud, and a patent attempt to evade the will of the Legislature, even as that will was interpreted to their benighted understandings. They never thought any such thing. This is a mere "dodge," and a lame one at that—it does not rise to the dignity of a quibble. It is the worst among the many bad features in this case. A lawyer's practiced ingenuity has failed even to suggest a doubt. I pity the man whose desperate cause compels him to come here with such a poor, bold, pitiful plea. These parties might have saved themselves from contempt, if not from disgrace, had they come here unembarrassed by this defense. We do not know that this defendant or Mr. Hillyer is deeply versed in the oracles of the law, yet, when this grave question is presented, and doubts are suggested, did they seek the advice of any lawyer? The constitution has provided that there shall be an Attorney General, whose duty it is made by law to advise the officers of the State. Was his advice ever sought? If some of these steps had been taken, and their interpretation sustained, these gentlemen might perhaps, with some plausibility, take shelter behind the boundless stupidity of their advisers.

Secretary Robinson and Hillyer contract to sell to Stevens bonds at forty per cent. They give him thirty-one thousand dollars of bonds, and such is the haste with which this transaction is consummated that they deal out to him bonds only partially executed—bonds lacking the signature of the Governor. The terms and conditions of this agreement no man knows. The Governor refused to ratify the contract, and yet the proper guardians of the bonds do not seek to recover them. Under no earthly contract or agreement they permit them to remain in Stevens' hands, for what purpose we can only surmise. The Legislature authorized the issue of the bonds of the State for another purpose than to furnish Hon. Robert S. Stevens with speculating capital. This lot of bonds meets with as many adventures as the last. Stevens takes them to Lawrence, gives them to Woodward to take somewhere; Woodward gives them to Smith, and at last they are landed in their destined haven, and committed to the custody of John W. Oorwin. Here, then, are

fifty thousand dollars of the State bonds being handed through the departments at Washington. While they are yet the property of the State, they furnish to the harpies who throng the avenues of the public offices, a basis for speculating off the National Government. No wonder the bonds could not be sold; no wonder they had no market value. It is not in such hands that capitalists look for a safe investment.

Having thus disposed of the property of the State, and finding still an empty Treasury, the Secretary and Auditor suddenly burn with patriotic fire, and seek to emulate the example of President Lincoln. I admired the skill and ingenuity of my most eloquent and venerable friend, Gov. Shannon, thus likening small things to great; and I, and every man within the sound of his voice, was moved by the earnest and patriotic words with which he depicted our country's glory and her dangers. He seemed, for a time, to forget the lawyer—to forget his case, and to talk like an inspired patriot. I listened with delight and admiration; and the flight was none the less grand, now that it becomes my painful duty to clip the wings with which he soared. The Legislature was about to meet, say they; State scrip was sadly depreciated, and, to the minds of these State officers, an empty Treasury was as formidable a foe to the government as an armed rebellion; and, therefore, because President Lincoln, when the whole continent was heaving with the throes and the convulsions of the terrible civil war which was then bursting upon us, overstepped the bounds of his constitutional authority to avert the impending ruin; therefore Hillyer and Robinson were authorized to trample under foot the laws, that the Legislature might not lack mucilage and ink. This is the argument denuded of its plumage. Before passing from this moral plea, behind which the gentlemen have made a most determined stand, I propose, even at the risk of interrupting the course of my argument, to dispose, at once and forever, by facts and figures, of all this talk about the exigencies and necessities of the State. This strain has accompanied their whole argument. Especially have they made it applicable to the war bonds, of which I shall have to speak hereafter. Not a dollar of the proceeds of the seven per cent. bonds ever reached Kansas, until after the mutiny of the Legislature; so that these gentlemen might have had the law changed, if necessity compelled, rather than violated. As to the war bonds, they were sold in June—sold, say the gentlemen, to repel an invasion which was hovering

on our borders. This justified the sacrifice of ten per cent. bonds, payable in ten years, at the rate of forty per cent. Fortunately I have before me the reports of the Auditor and Treasurer of this State. I read from the Treasurer's report, made in January, 1862:

Amount received from sale of Bonds—thirty-one thousand dollars, at 40 cts.	\$12,400 00
By amount of Auditor's warrants redeemed,	3,568 54
Balance in Treasury,	8,831 46

So that over eight thousand dollars of the twelve thousand four hundred realized, remained in the State Treasury from June to January, untouched. I now read from the Auditor's report:

WAR EXPENSES.

1861.				
June 28	C. Robinson	Messenger to Washington to procure arms, &c.	\$ 467 18	\$20,000 00
July 24	L. C. Willmarth	Use of horse &c, organizing militia	28 00	
30	R. Morrow	Provisions furnished troops	1,653 67	
Aug. 30	"	"	73 15	
18	"	"	75 00	
31	"	"	37 44	
Sept. 9	Lewis Wise	"	11 05	
17	F. W. Giles	Express charges on munitions of war	7 50	
Oct. 23	M. K. Smith	Provisions furnished troops	86 30	
28	C. Robinson	Services and horse and buggy hire	539 50	
28	"	"	180 00	
28	R. Morrow	Provisions furnished troops	5 75	
28	Fry & Russell	Horse and buggy hire	300 00	
28	Geo. S. Hillyer	On account of Fry & Russell	31 00	
			\$3,450 54	

These figures fall like a shower-bath upon the metaphors of the Governor. There is but one item expended which looks to the defense of the border. One might well imagine, from the size of Gov. Robinson's bill for buggy hire, that he had driven a flaming chariot along the Missouri line, from June to January.

We left Messrs. Robinson and Hillyer contemplating a patriotic sacrifice. They would go to Washington, and, with their financial ability and experience, rescue the credit of the State from dishonor. Stevens had nothing to do with this pilgrimage. It was with some difficulty that we ascertained that there was anything but a blind fatality urging them to Washington. It was not even agreed—so they would have us believe—that Robinson should go. By diligent inquiry, however, we find that Senator Pomeroy had written to this defendant that bonds could be sold in Washington, and it was understood that they might be purchased by the Interior Department, which, before that time, had bought our war bonds. In order to counteract the impression that there was any sort of concert of action in regard to this matter, Hillyer says that Robinson left here

for Chicago, uncertain as to going to Washington. Thus, then, according to Mr. Hillyer's account, he left him to sell the State bonds, when fifty thousand dollars of them were beyond his reach and control, in the hands of Stevens or his agents; and well knowing that he alone could do nothing in the matter, as, by the law, only a majority of the board could act. It may be that Stevens was not consulted or advised of this trip. It may be that Robinson had not determined to go. It is possible, but it is not probable. The facts, before and subsequent to that time, point to another and a different conclusion. Robinson showed his faith by his works. Before he left for Washington, he purchased State bonds on speculation. At last, both these worthies reach the capital. Their ostensible mission is honorable and honest. The natural course—so we would all think—would have been for them to have attempted to sell the bonds. They knew the head of the department, where they expected to sell them; and it would have seemed every way appropriate that they should have waited upon him and explained the object of their visit. But here we are met with a class of testimony which we are so unfortunate as to be unable to counteract. The gentlemen give us the benefit of their congressional experience, and talk about the corrupt purlieus of the departments at Washington, so beset and invested with difficulties that they can be approached only through certain dark, mysterious passages, known only to the initiate. It may be—as we humble citizens have been taught to believe—that the portals of the departments stand open, and that an honest man, on an honest errand, may receive a patient and respectful hearing, even from the highest of the peoples' servants. It may be that it is only those who love darkness rather than light, that seek the devious, hidden paths, so graphically described. There is a back door to every house. Not one engaged in this prosecution has ever achieved the high position of a congressional seat, and we cannot say that this is as I have attempted to describe. These men, at any rate, cannot say that our explanation, so charitable to the government, is not true. They never saw the Secretary of the Interior, or any other officer of the government, while they were the agents of the State of Kansas; and only when they assumed the more congenial functions of the secret agents of Stevens. It is true they saw Senators Lane and Pomeroy, and Representative Conway; and an attempt is made—another lamentable shift—to saddle the responsibility of this transaction upon them. They were elected to

discharge the duties belonging to their offices, and not as the guardians of State officers, who might prove too weak in mind or morals to resist the first opportunity which might offer for a betrayal of their trusts. They say they were advised not to go to the Secretary of the Interior, but to employ Stevens. Such advice, of itself, must have put them on their guard, if they were not, as the evidence shows, seeking for that very advice. Without one word or effort, through weeks of profitless lingering in Washington, they hold up their feeble, helpless hands, as they would have you charitably believe, and implore the assistance of Stevens, who, alone, is all-powerful to save them and the State. The departments are, to them, awful and mysterious temples, within whose sacred precincts only the anointed priests may tread; and of these, in their eyes, Stevens stands high and conspicuous. They have not even applied to a broker to assist them, whose customary commission, we are told, is one-quarter of one per cent. They employ Stevens, or they sell to Stevens; at any rate, Stevens gets the bonds, and that seems to have been, throughout, the great object to be attained. We have been told that delegated power cannot be delegated; but that mattered not. Messrs. Robinson and Hillyer had probably prepared themselves with a convenient mistake, in regard to this ancient maxim. If the State had desired the services of this distinguished negotiator, he would probably have been employed; but then, like Messrs. Stone and Clark, he would have been compelled to give a bond—an inconvenient and, sometimes, an impossible instrument. They employed him of necessity, they say. Let us see how much he had to do with selling the bonds. Mr. Secretary Smith was the man first to be approached and won; and he emphatically says, in his testimony, that he was unfavorably disposed toward the negotiation, until he was convinced, by the representations of Gen. Pomeroy, that the investment was a safe and good one for the funds of the Indians. He, at least, was not manipulated by the skillful hands of Stevens. The President's sanction was necessary, and this was obtained by a letter from our congressional delegation; and none of us would like to believe that the influence of Stevens was necessary to induce them to serve the interests of the State. The transaction, divested of Stevens, looks easy and fair, the only cloud and mystery about it being the employment of Stevens, and the sub-agent, Mr. Corwin, whose exact connection it is difficult to trace, although an imputation has been attempted, as it seemed to me,

when cast upon Secretary Smith, by showing that Corwin was related to him.

These are the facts as they appear from the testimony; and yet for weeks they waited, looking hopefully to Stevens to come and engineer this plain and honest business. It is testified that they were imploring him to come and help them, and that he, at times, was coy, and at times defiant. None of this remarkable correspondence is before the Court, and we are left to vague conjecture as to its singular contents. He had fifty thousand dollars of the State bonds, and these they never sought to get into their possession; but they wanted his aid—his powerful presence. At last, overcome by their much importunity, Stevens goes to Washington, and, from the accounts here given, one would suppose he spent weeks in overcoming their scruples, and perfecting the arrangement between them. Yet he arrived there on the night of Saturday, the 30th of November, and the agreement, under which he took the bonds, is dated on the 3d of December. Do you believe that all the transactions—some graphically described, and others darkly hinted at—took place in this brief interval?

It is in these days that more good intentions are devised by this defendant. He who lately was willing, and did barter the bonds at forty per cent., suddenly becomes obdurate. He believes, so his friends here say, that sixty per cent. is the best price which can be realized, and that it would be for the interests of the State to sell at that price; but still he manfully clings to seventy per cent.

Why does he do this? Why is this parade here? To show that he hesitated to violate the law? To show that he never mistook its provisions, and, for a time, was determined to stand by them? The attempt to show this, even if it be false, or the introduction of the testimony, if it be true, lets the light through this shabby, flimsy pretext of mistaking the law. Here, at last, we find him acknowledging that, before he violated the law, he knew the act he contemplated to be unlawful. He refuses to yield; and then they would have you believe Stevens, with an assured profit of over twelve thousand dollars, even at seventy cents, tore up the contract!

Stevens and the Auditor and Secretary seem, by their account, to have had a desperate encounter. They waxed wroth on either side; but no blood was spilled, and the State only suffered. This tearing up of receipts—this giving over of bonds—was a cheat and a sham—just such a cheat and sham as these three would have concocted, had they been conspiring to defraud the State, as we

charge; but admit it all, and it but shows that he knowingly, intentionally and willfully violated the law. Finally, all his fastidious scruples overcome, this remarkable document is executed:

This certifies, that we have employed and constituted R. S. Stevens an agent on the part of the State of Kansas, to negotiate and sell all the seven per cent. bonds of said State, issued in accordance with the provisions of an act of the Legislature of the State of Kansas, approved May 1st, 1861, and an act supplementary thereto, approved June 3d, 1861, authorizing the issue and sale of one hundred and fifty thousand dollars of the bonds of said State; and we hereby agree to give him, for his services as such agent, all and whatever amount of money he may receive for said bonds over and above sixty cents (60 cts.) on the dollar; that is to say, for all the bonds belonging to the State, which the said Stevens may sell, he is to pay into the State treasury the sum of sixty cents (60 cts.) on each and every dollar.

Witness our hands this 3d day of December, A. D. 1861.

JOHN W. ROBINSON, *Secretary of State.*

GEORGE S. HILLYER, *Auditor of State.*

This instrument is variously interpreted by the parties. Mr. Hillyer says that he and the Secretary considered the contract a sale to Stevens of the bonds; but their notions of the force of language have been shown to be remarkably confused. I care not which shape this modern Proteus may assume—purchaser or agent—the fraud and illegality clings to the transaction still. When he put his name to that paper—he, a sworn officer of the State, violated his official oath; violated the laws he was especially bound to respect and execute, and betrayed the interests of the people who had honored him with their confidence. Call it recklessness—call it carelessness—call it any thing—and yet, with this act recorded against him, whatever your verdict may be, he cannot go forth from this trial, as his counsel proposes to send him, “pure and stainless, without the smell of fire upon his garments.” This very receipt, contract or nameless thing, mentions the very law which it violated. Stevens binds himself to nothing. He makes no contract or stipulation on his part. No bond here to save the State harmless. We have only the personal responsibility of Mr. Stevens to look to for the money, out of which we believe the State has been defrauded. Has not the State suffered wrong in this? But this is not enough. A sort of letter of attorney is needed before Stevens can be fully

accredited to use the name of the State for his own purposes. This document needs the signature of the Governor. He is not present. He has, as the testimony shows, refused to sanction any sale for less than seventy cents; and yet John W. Robinson makes another patriotic sacrifice, and signs the name of the Governor to this paper, which is to be used in furtherance of a scheme to sell the bonds at sixty per cent. Here we might well pause to permit Robinson and Hillyer to retire for a few moments, and express to each other the entire innocence of their intentions. They have, unfortunately, omitted any special declarations, as to the honesty of this transaction. This letter, the one bearing date the 25th of October, purporting to be signed by Governor, Secretary of State and Auditor, was a matter of no little moment in this transaction. Secretary Smith says, upon the faith of that letter alone, he conducted his negotiations with Stevens as the agent of the State. It was made and signed in Washington, somewhere between the first and fifth of December. It bears date at the city of Topeka, on the 25th day of October. Why was the Governor's name signed? Because it was essential to carry out this scheme—to further this fraudulent and illegal transaction. Why was it antedated? It was in order that the fraud might not be suspected or discovered, if it should be ascertained that the Governor was in Kansas, and not in Washington. Tell not of the equality of your laws, when the poor, ignorant beggar's mouth is closed, and he is precluded from showing what dire and terrible necessity drove him to the commission of a crime, mayhap to prolong his miserable existence; and these State officers—men in high places—men intrusted with the execution of your laws—are allowed to produce here their manufactured hopes and fears—their concocted intentions—their shameless pleas of ignorance and mistake—to avert the just punishment of their misdemeanors! Thus fortified, Stevens, with the constant advice and assistance of the State officers, sells the bonds at eighty-five cents on the dollar. This defendant and his colleague become suddenly inspired with an energy in singular contrast with their torpidity, during the preceding weeks. Now, may it please this honorable Court, where is the first word of legal or competent testimony tending to show that Hillyer and Robinson might not have sold these bonds without the assistance or intervention of Stevens? We have the unsupported and somewhat interested opinion of Stevens on the point. We have the testimony of counsel in their congressional experiences.

Mr. Stanton.—I did not testify.

Mr. Stinson.—I meant this remark in no disrespectful sense. I referred to the congressional experiences which I understood you and Gov. Shannon to favor the Court with.

Mr. Stanton.—The Attorney General is mistaken; I gave no congressional experiences.

Mr. Stinson.—Then I will throw the burden on Gov. Shannon. He must stand it, for he is not here to defend himself.

The only reason seems to be that they understood from Senator Pomeroy that they better not try. Take this testimony together, and if it all be true, that distinguished senator seems to have been drawn into the meshes of this web of conspiracy and fraud. He testified, in his deposition, that he is "a laborer." The scripture says "the laborer is worthy of his hire." Let us, for the honor of the State, if we can, so liberally and charitably construe this testimony, as to exclude the idea that the laborer received his hire in this transaction. Even this allusion may do injustice to an innocent man; but he who touches pitch must be defiled. The people of the State will gratefully accept, and, at the same time, earnestly insist upon a full explanation of Mr. Pomeroy's connection with this transaction.

For his services Stevens received twenty-five dollars for every sixty which was paid the State. What were these services? Mr. Stevens has been upon the stand, but his lips were sealed. The vague conjectures of counsel, which hint at dark and even dishonest work, are our only guide. Has the State of Kansas fallen so low, that to sell her first issue of bonds, she must resort to tricks and dishonest practices? If the selling of the bonds could be fairly, openly and honestly done, then it is admitted this defendant and Hillyer might have sold them. If they could not be so sold, no public officer had a right to mingle the name of the State in a scheme concocted with iniquity and fraud. Again, I protest against these covert insinuations which so meaningly and darkly hint at the all-pervading atmosphere of corruption about the public offices at the national capital. This government is hardly worth the blood and treasure which is being poured out like water for its preservation, if it can be approached only through chicanery and corruption. This money, so received by Stevens, is, according to the latest interpretation, compensation for selling the bonds. It may have been compensation, but there was a great deal of it. There

is no authority in the law anywhere authorizing the employment of sub-agents by the State officers in this transaction, and no provisions made for their payment. True, the original act says the expenses of selling may be deducted from the amount received, but the supplementary act, under which this defendant got his authority, provides that all the money received from the bonds shall be paid directly into the State Treasury. These men could not touch a dollar, or a dime, or a cent of that money, for expenses, or anything else, until the Legislature authorized them to do it. Waiving this, however, what does the word "expense" mean in this connection? Does it mean wholesale bribery? Does it mean the lavish outpouring of money for the purposes of corruption? It means legitimate and necessary expenses, incurred, by the proper officers, in traveling, and otherwise, for the purpose of selling these bonds.

Compensation is a new word for this thing, suggested by the ingenuity of counsel. Hillyer and Robinson, who seem to have exercised no little skill in manufacturing a defense, never dreamed of this novel and amusing idea. They say they sold the bonds for sixty per cent. which, being interpreted by counsel, means they sold them at seventy per cent. and gave ten per cent. for selling. This, indeed, is strategy. All we know is that the State, through the contract of this defendant and Hillyer, agreed to part with all its property in these bonds for sixty per cent., and that this was what the State received, leaving the legitimate expenses of the sale unpaid, as Mr. Hillyer testifies.

I must recall one statement. We have before us a monument of the services rendered by Mr. Stevens to the State, and for which he was so generously compensated. He made a contract with the Secretary of the Interior by virtue of that letter of attorney and credit, with a false date and a spurious signature. That contract I must read :

It is agreed, between the United States, by C. B. Smith, Secretary of the Interior, and the State of Kansas, by R. S. Stevens, Agent of the State, duly appointed to sell the bonds of said State, that the United States shall purchase the bonds of said State, dated July 1, 1860, and payable in fifteen years, in the State of New York, with interest at the rate of seven per cent. per annum, payable annually in New York, to the amount of one hundred and fifty thousand dollars, and which is the whole amount of the issue of said bonds, and which bonds are to be paid for at the rate of eighty-five per cent. of their par value.

\$95,600 of said bonds are delivered to the Secretary of the Interior at this time, and he has paid to the State of Kansas, on account of the same, the sum of \$55,000; and no further sum is to be paid until the residue of said bonds shall be delivered, when the balance of the purchase money shall be paid.

CALEB B. SMITH.

R. S. STEVENS.

Department of the Interior, Dec. 19, 1861.

The State of Kansas is here used for the purposes of Mr. Stevens' speculation. But eighty-seven thousand dollars of bonds were at that time the property of the State, and as to the rest of the one hundred and fifty thousand dollars, Mr. Stevens has transformed the sovereignty into a stock-broker. Eighty-seven thousand dollars of these bonds are now in the Department of the Interior. We have received pay for but about fifty-six thousand, and under the contract we cannot receive a dollar for the remaining thirty-one thousand until we go into the market and buy up our own bonds and fulfil our contract. It is hard enough upon the people to pay the taxes necessary to support the government without raising a capital now to purchase back her bonds, at par, which she issued within the year at seventy per cent. We cannot rescind the contract, for we have not the money we have received to pay back. Thus ingeniously has this financial agent of the State conducted our matters, under the eye of the Auditor and Secretary of State. So long as Stevens got twenty-five per cent. on fifty-six thousand dollars he was safe. If he could complete the contract advantageously, he would do it, and appropriate the profits. The agent was to receive all the profits and the principal to bear all the losses. They conceived the idea of selling these bonds to the Secretary of the Interior before they left for Washington, yet they were as silent as the grave. This defendant, in his communications, sets the seal of secrecy on the lips of his confidential clerk and friend, Weer. His letters are in evidence, and his counsel dwell with charming earnestness on their pious tenor. Let them have all the benefit of his patriotic invocations to the Deity, and then these letters show a singular anxiety to keep from the people of Kansas a transaction in which every one of them was as much interested as the defendant. If their business and intentions were honest would they have feared publicity? What harm would it have done if every bond issued by the State, and in the hands of private parties, had been sent to Washington, or even to the Secretary of the Interior? His

object was to secure the control of the whole issue. This object certainly would have been facilitated, rather than retarded, by having it known that the people could get eighty-five per cent., or any other reasonable price, for the bonds which they held. The Secretary of the Interior did not advise secrecy. His negotiation was the public act of a public officer. No! this secrecy was another of those indices which mark the character of the whole transaction. It had a double purpose. To prevent the remonstrance and interference of the people, and to forward the scheme of their real principal, Mr. Stevens. If the matter could be kept a secret, Stevens could buy up the bonds, and in the name and by the authority of the State, fleece individuals as he had already the community. It shows the complicity and the conspiracy which we have charged. The bonds remain the property of the State, subject to the uncertain and shifting claim of Mr. Stevens upon them, up to about the 20th of December. These bonds were dated in July, 1861, with coupons for the semi-annual interest. The first of these coupons become, by their terms, due on the first of January, 1862. These coupons are generously intrusted to Mr. Stevens by the State officers. They make no inquiry or stipulation in regard to them when they consent to receive sixty per cent. Stevens separates the coupons from all the bonds and pays the amount of them, himself, out of the sixty per cent. coming to the State. This amounts to the pretty sum of three thousand dollars. The honesty of this transaction has, thus far, failed to find a vindicator upon this floor. You—the people of the State—have paid three thousand dollars interest on bonds which were constructively in your own treasury.

While these transactions are being consummated, these men, then present, in the eye of the law, managing the whole matter, say that they did not know what Stevens was getting for the bonds—did not know to whom or when he sold them, although they suspected—did not know what became of the bonds—in fact knew nothing but Stevens. If you believe these men, the heathen fatalist, before his wooden idol, had more of “free agency” than they in the presence of Stevens. Clay, in the hands of the potter, was not more plastic than they. Stevens’ offer and contract were among the public records of the Interior Department. They, the legally accredited agents of the State, employ a subordinate, giving him all their powers, and more than they ever possessed, and never by word or sign sought to know how he was exercising those powers, or to examine the stipulations made by him, on behalf of the State.

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They never even asked Stevens. Their own private bonds were in Stevens' hands, and yet, such was their childlike confidence, they did not even ask or inquire in regard to them. All this may be true; but if true, was not their blindness willful—their carelessness premeditated and criminal? A man may not plead his ignorance of fact, when it is his duty to know and he has avoided knowledge. They are estopped from denying that they did not know this whole transaction. The means of knowledge were within their reach and they willfully shut out the light. We have a right to say they knew it, and they have no right to deny it. To Topeka they return before the session of the Legislature, and yet, within the annual message of the Governor, or in the report of the Auditor, is there one word about this great financial achievement? The first report of this transaction, which reaches the representatives of the people, comes through rumor, and not, till the aid of the machinery of an investigating committee is invoked, are the facts and terms, in regard to this arrangement, brought to light. Thus the prominent features of this branch of the case present themselves to my mind. I would be willing to risk the case on the gentlemen's own interpretation of the law, and leave it with you, who have followed me through the dark and devious ways trod by this defendant, to say if human testimony, in such a case, can establish moral guilt, whether he is not morally as well as legally guilty. Remember the source from which our evidence has, of necessity, been drawn. Every word of Hillyer, which implicated Robinson, implicated himself, and the instinct of self preservation is too strong, at least in a weak man's breast, not to influence and color his testimony. Such operations do not beget honesty, as is evidenced by Hillyer's transaction with Weir. He took his bonds to sell for him. He got seventy per cent. for them—paid Weir sixty per cent.; and then, after the investigating committee met, and he was about to be exposed, he paid the other ten per cent.

Stevens, so prominent in all this scheme, would hardly be disposed to betray his tools. Men who contemplate crime, make no public proclamation of their intentions on the street. To cover their tracks is their aim. Like all conspiracies, this one is difficult of proof. They can never be shown by positive testimony, but must always be wrought out from circumstances. But we are told that we have failed to prove a motive—we have traced no money into this defendant's pocket. I never, for a moment, dreamed that, if

these men had been paid to assist in defrauding the State, they would confess it. I know not that they received a single dollar; it is not material as affecting the question of their guilt, although it might change its degree. It may have been a suggestion—a nod—a hint. It may have been conveyed in some such ingenious way, that these gentlemen, so liable to mistakes, have mistook its source. They may, with criminal and careless prodigality, have emptied the coffers of the State into the pockets of their friend. The great, black fact is, that the State, through the instrumentality of this defendant, has been defrauded.

If, then, I have succeeded in shewing you that the law forbid the sale of these bonds at less than seventy per cent., that John W. Robinson sold them for less than seventy per cent., and that he intended to sell them for less than seventy per cent., I claim that I have made out a case of misdemeanor in office, substantially as charged in the first Article of Impeachment. In pronouncing him guilty, you do not say that every allegation is proved, but you do say that enough of the matters charged in the article have been proved to constitute a misdemeanor. This is the rule even in an indictment, and it is every where laid down that charges preferred upon trials of impeachment are to be construed with the utmost liberality. But I claim that we have proved every word of this article. If we have not, by facts and circumstances, shown a guilty knowledge on the part of this defendant, we have placed him in a position where the law charges him with knowledge. At any rate, he knew that the bonds could be sold for more than sixty per cent., as we have proved by all the circumstances, and by the testimony of Hillyer. We are not bound to show that he knew the price to a cent, as we have charged it, any more than is the prosecutor in an indictment for larceny bound to show the value of the article stolen to be as alleged. Does not the evidence show that this illegal act was done secretly, as charged in Article 2? Upon the same principles for which I have contended that the charges in the first article are made out, I claim that you must convict under Article 3. We have made out a misdemeanor substantially, if not literally, as charged in this article. The gist of the offense here charged, is that he permitted Stevens to take the coupons, the property of the State, and convert them into money for his own use. The only defense is technical, not substantial. They seek an acquittal upon immaterial data, and not upon the facts.

Article 4, charges a misdemeanor. It charges a usurpation of

power in office, and there is no pretense that it is not proved. That there was a conspiracy substantially as charged in Article 5, this testimony indubitably establishes. How else can you reconcile the constant intermeddling of Stevens with these bonds—the lack of an attempt even to sell them to any other person—the mysterious trip to Washington—Stevens' equally mysterious appearance there—the illegal contracts, willfully entered into between him and Hillyer and the defendant—the feigned signature of the Governor to an instrument in aid of their illegal enterprise—the secrecy with which it was conducted—the earnestness with which this defendant devoted himself to Stevens' interests—save upon the hypothesis that there was a preconcerted arrangement and agreement between these parties to do what they did.

[Mr. Stinson here read authorities, and commented upon the law in regard to conspiracy.]

Take this testimony and weigh it carefully, and if under the law and the evidence you can say "not guilty" upon these charges, then so be it. But if you are disposed to exercise the quality of mercy towards this defendant, remember that mercy to him may be cruelty to the State, and that this *mistake* unpunished may be but a precedent for others, and the next Legislature may have to investigate another and additional issue of one hundred and fifty thousand dollars of bonds, made under a mistake of law, equally plausible with the one which is attempted to be shown here.

While on the subject of bonds, may it please the Honorable Court, I will depart from the order in which the articles are numbered, and beg your attention to the charge in regard to the war bonds, contained in Article 6. The facts averred in this article are not denied. This defendant did countersign forty thousand dollars of war bonds. The law under which these bonds were issued, reads as follows :

CHAPTER LIII.—AN ACT to authorize the State of Kansas to borrow money, to repel invasion, suppress insurrection, and to defend the State in time of war.

Be it enacted by the Legislature of the State of Kansas :

Section 1. That the treasurer of this State be and he is hereby authorized, to borrow the sum of twenty thousand dollars, or so much thereof as may be necessary, to repel invasion, suppress insurrection, and to defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan is hereby authorized.

Sec. 2. That the treasurer shall prepare bonds, in sums not less than three hundred dollars, to the full amount of said loan, with suitable devices, to prevent counterfeiting ; which said bonds shall be signed by the Governor and Treasurer, countersigned by the Secretary of State, and shall have the seal of the State of Kansas attached, and registered by the Auditor of State, and shall be payable in two years from the time said loan shall be effected, and shall bear interest from said time, at the rate of ten per cent. per annum, said interest payable annually at the office of the Treasurer of this State.

Sec. 3. That the loan authorized herein shall be made upon the bonds specified and provided for in section two of this act.

Sec. 4. It shall be the duty of the proper officers of State to cause to be levied and collected, each and every year, a tax sufficient to pay the annual interest on said debt ; and the principal thereof, when the same shall become due, and the proceeds of said taxes are hereby specifically appropriated to the payment of said principal and interest.

Sec. 5. The faith and credit of the State of Kansas are hereby pledged for the repayment of said principal and interest, when the same shall become due and payable.

Sec. 6. That this act shall take effect and be in force from and after its publication ; and, immediately after this act shall receive the signature of the Governor, it shall be the duty of the Secretary of State to publish it in some newspaper published at Topeka, Kansas, at least one time, which shall be deemed a sufficient publication.

Approved, May 7, 1861.

It would seem that a law so plain would hardly need the aid of a legal interpreter, and that all efforts, to find a meaning different from that so simply expressed, must result in confusion. By comparison with the law in regard to the seven per cent. bonds, it will be seen that that act was "to authorize the negotiation of bonds."

This is "to borrow money." The treasurer is authorized to borrow twenty thousand dollars. The loan created by borrowing twenty thousand dollars is of course twenty thousand dollars. The treasurer is authorized to prepare bonds to the "amount of said loan." You authorize a man to borrow one hundred dollars for you, and give your note for the amount of the loan, could he, under that authority, claim that he had a right to sign a note for three hundred

dollars, and sell it for one hundred; yet that is this case. From contemporaneous acts let us gather the intention of the Legislature. The seven per cent. bonds were payable in fifteen years. The war bonds to be issued for money borrowed were payable in two years from this date, with interest at ten per cent. The Legislature limited the price of the seven per cents. at seventy cents on the dollar, and can it be believed that they intended to put it in the power of any person to dispose of the war bonds at forty per cent? Gov. Shannon has called the attention of the Court to act of Congress passed in 1814. While there is some similarity between the first section of this act, and the first section of the one now under examination, yet it will be seen that the whole tenor and contemplation of the law are different. The Secretary of the Treasury is to receive bids for the bonds to be issued, and to report to Congress the amount for which they shall be sold. There are no such provisions in our law. Even the gentleman's congressional researches have failed to show that the Secretary of the Treasury issued more than the amount of the loan. Here forty thousand dollars of bonds have been issued under this law, and they have derived their authenticity and vitality from the act of this defendant in placing his official signature—his warrant of their legality and genuineness upon them. Yet, it is claimed, that as he is a mere ministerial officer, in this particular, it was his duty to sign everything which was brought to him. Gov. Shannon brings here a "straggling Missouri case," and we are obliged to trust to the infirmity of human recollection for the report, to support the monstrous doctrine that even though this law did not authorize the issue of more than twenty thousand dollars of bonds, yet the courts, by mandamus, would compel the ministerial officer whose duty it was to sign these bonds, to sign as many as might be brought to him, regardless of the law. Suppose Robinson, when he had signed twenty thousand dollars of war bonds, had refused to sign more, is there any judge in christendom, or in heathendom either, who would have compelled him to lend his aid to a plain violation of law.

Let us hope, for the credit of Missouri, that she has here suffered from the misconceptions or the lack of recollection of her reporter in this behalf.

I have always supposed that even ministerial officers were accountable beings, and I know they have been so held every where, except, perhaps, in Missouri. These bonds, to be issued for money

borrowed, were sacrificed, to the man who has sucked out the financial life of the State, at forty per cent. Thirty-one thousand were sold, and they yielded, when melted down in Stevens' patent crucible, twelve thousand four hundred dollars. But we are told that we have virtually abandoned this charge, because the House did not impeach Dutton, the Treasurer, who in this defense figures as the greater criminal. I know not what induced the House to stay its hand, when Mr. Dutton was reached. Perhaps they were weary of their labors in cleaning the Augean stables of corruption into which the executive officers of the government had been converted. Perhaps this simple lapse of the Treasurer seemed almost a virtue when compared with the illegality—the fraud—the corruption which seemed to mark every step of this defendant's official career. At any rate, this defendant cannot be lugged out of this court on the broad shoulders of Treasurer Dutton

"As Enceas old Anchises bore."

Has the State suffered any damage by this act? These bonds were sold in June—thirty-one thousand dollars of them. They are payable in two years, that is, in June, 1868. Two years interest, at ten per cent., will then make the whole debt over thirty-six thousand dollars. For the use of twelve thousand four hundred dollars for two years, the poor struggling State of Kansas has to pay over thirty-six thousand dollars—one hundred per cent. Yes! we were paying one hundred per cent. on over eight thousand dollars of this money, when it was constructively, at least, in the Treasury from June to January.

Gov. Stanton.—But the expenditures which this loan was intended to meet had been made.

Mr. Stinson.—I know that may have been, but the money was there, and the people were paying one hundred per cent. on it. Four thousand dollars for the poor privilege of having eight thousand being idle for six months in the Treasury. Away with this shabby plea of State necessity, and let this scandalous infamy out in the light. Go home, if you in conscience can, and tell to the poor farmer, who out on the lone prairie, through sun-shine and storm, is enduring toil and deprivation, that he may rear for himself and family a home—go tell the laborer, bending over his many tasks, that he may eke out painfully his own and his children's daily bread, that though the law has been violated—the Treasury plundered—useless debts incurred, and the State bound to the payment

of interest at one hundred per cent., and that taxes for all these things are to be added to their heavy burdens, and yet you can find no guile in these State officers. These bonds were worth par—they were sold at ninety-five per cent., and yet all sorts of incompetent, irrelevant and pointless testimony has been adduced here to show that they had no value.

I leave the sixth article with you, without comment. Upon the last article, I have but a word to offer. To borrow a metaphor from Gov. Shannon, this printing business is but a shrub of rascality, growing at the foot of the stately mountain of fraud, we have been exploring. The well known and almost proverbial proclivities of printers to fatten off the public printing, induced the framers of the constitution to attempt to prevent the evil, by providing that the public printing should be let to the highest bidder. The object being to secure competition, and prevent extravagant prices being paid. We find in the transaction referred to in the last article, that this object was hardly attained. Trask & Lowman had bid for the State printing—their bid was the lowest, and they were entitled to the contract. They handed in a good bond, to secure the faithful performance of their contract. Gov. Shannon here takes fire, and in a strange and most incomprehensible manner charges down on Trask & Lowman with wholesale accusations of fraud. He talks like an expert—says the bid was too low, and was put in to cheat somebody else. The only reply to all this is, that there is no testimony showing or hinting at any fraud on the part of these men. I will put my testimony against Gov. Shannon in this matter, and answer for them as honest men in this transaction. Having got the bond in the office, we have to rely on the testimony of Mr. Cummings, who though a good, is not what is termed a swift witness. He is not one of those communicative gentlemen, who rush into a court of justice and unbosom themselves of all they know, unsolicited. He is indeed reserved; yet he faithfully, and truly, I doubt not, answered all my questions. From him we learn that this bond of Trask & Lowman caused no little trepidation among the craft. Quite a number of those interested met in the Secretary's office, and there openly—the Secretary being sometimes present—were endeavoring to persuade Trask to withdraw his bond—the bond which he had no right to withdraw, because it had become the property of the State. While this every way appropriate discussion is going on, the bond lies conveniently on a table, within reach. The bond disappears, and Cummings,

with the consent of the Secretary, raises his bid from sixty-five cents to one dollar per thousand ems.

If nothing more, this transaction shows the extreme recklessness with which the business of the office of this defendant was managed.

And now my task is done; and, in conclusion, I can but again express my regret that the House of Representatives and the State of Kansas have not been more ably represented in this important branch of the proceeding. If the evidence does not convince, beyond a reasonable doubt, of the guilt of this man, then send him forth to the world with every stain upon his fame wiped away, and give him the benefit of that sympathy which is the due of a wronged and persecuted man. But be just to the State, as you are merciful to him, and if his crime—his misdemeanor—is proved, sternly pronounce your righteous judgment. If the guilty now escape, corruption will boil and bubble in your State government, until the people shall rise, in their majesty and might, and, with relentless hands, purge and purify their offices. If this defendant is guilty, I stand here for the people of Kansas and demand your judgment. If he is guilty, brand him with your blighting condemnation; and let him stand, like the tree which Christ cursed on his way to Jerusalem, blasted, blackened, and withered—a monument and a warning, in all coming time, of the just yet terrible retribution which the State of Kansas inflicts upon her unworthy and faithless officers.

On motion, the Senate adjourned.

TENTH DAY.

SENATE CHAMBER,
Thursday, June 12, 1862, 9 o'clock A. M. }

The Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Absentees—Messrs. Hoffman, Holliday, Lappin, Lynde, McDowell and Morrow.

Journal of yesterday read and approved.

On motion of Mr. Cobb, the Senate went into executive session for the consideration of the case of State of Kansas against John W. Robinson.

Afternoon spent in executive session.

On motion, Senate adjourned.

ELEVENTH DAY.

SENATE CHAMBER,
Friday, June 13, 1862, 9 o'clock, A. M. }

The Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Absentees—Messrs. Essick, Hoffman, Hubbard, Lynde, Morrow, Sleeper and Stevens.

Journal of yesterday read and approved.

On motion of Mr. Ingalls, the Senate went into executive session for the further consideration of the case of the State of Kansas against John W. Robinson.

After some time spent therein, the doors were thrown open, and the Senate resumed its usual order of business.

On motion, the hour of three P. M. was appointed for a final decision of the case of the State versus John W. Robinson.

On motion, the Senate adjourned.

AFTERNOON SESSION.

TWO O'CLOCK P. M.

The Senate met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Mr. Stevens called for the reading of the report of the special committee on printing.

The Secretary then read the report.*

Mr. Ingalls.—MR. PRESIDENT: It is my opinion that, after the presentation of this resolution, the whole matter was referred to the committee on printing, of which I am a member. No action has been taken by that committee, and, to my knowledge, they have not held a meeting since. It will be remembered that, on the same day after this report was presented, the reporters, appointed by the President, sent in their resignation, on the ground that it would be impossible for them to prepare the matter for the use of the printers each day, as required by the resolution. There the matter rested; and I do not think this work can be placed in the hands of the printer, without some further action on the part of the Senate.

The President.—The Senator is correct in his statement. At the same time a suggestion was made by the Senator from Leavenworth, Mr. McDowell, after the statement was made by the reporters, that the depositions and testimony be prepared and printed as fast as possible, for the use of Senators. The Senate acquiesced in this, and I, therefore, employed copying clerks, and placed the matter in the hands of the printers.

Mr. McDowell.—I introduced a resolution to the effect as stated by the President; but as the Senate agreed to the suggestion therein contained, it was not voted upon.

Mr. Stevens.—MR. PRESIDENT: My object in calling attention to this subject, was to ascertain the position in which Senators considered it stood. I met Mr. Cummings, the printer, in the hall of the Ritchey Block, after the adjournment of the session this morning. I spoke to him in relation to the printing of my own testimony—a matter which Senators will remember came before them. I was informed that Mr. Cummings had not received any of the copy of that testimony, and stated to him that the Senate did not wish it printed. Mr. Cummings disputed the right of the Senate to control the printing, after it had been put into his hands. Supposing it to be perfectly competent for the Senate to control its own printing, or to suppress matter not already published, I determined to bring the subject before the Senate. I have no action to propose, and am perfectly satisfied with the explanation of the Chair.

*See report of committee in third day's proceedings, page 113.

The case of the impeachment of John W. Robinson, Secretary of State of Kansas, was then resumed.

High Court of Impeachment. }

State of Kansas,

against

John W. Robinson. }

The Managers on the part of the House of Representatives attended, accompanied by the Attorney General, Hon. S. A. Stinson.

John W. Robinson, the respondent, by his counsel, also attended.

By the President pro tem.—The hour of three having arrived, the Senate will now pronounce judgment in the case of John W. Robinson, Secretary of State for the State of Kansas.

The first Article of Impeachment was read by the Secretary pro tem. The President pro tem. then took the opinion of the members of the Court respectively, in the form following:

Mr. —, how say you? Is the respondent, John W. Robinson, Guilty or Not Guilty of a High Misdemeanor, as charged in this Article of Impeachment?

The following gentlemen voted GUILTY, in response to the Chair: Messrs. Bayless, Cobb, Connell, Curtis, Essick, Holliday, Hubbard, Keeler, Knowles, Lambdin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs—17.

Those voting NOT GUILTY were Messrs. Barnett, Ingalls, Denman and Lappin—4.

When Mr. Bayless' name was called, he rose in his place and said:

MR. PRESIDENT:—I vote Guilty upon these charges for this reason: Where the respondent, John W. Robinson, is charged with knowing what Mr. Stevens, his agent, received for said bonds, viz: eighty-five cents on the dollar, the law holds that John W. Robinson is presumed to know what his agent, Mr. Stevens, sold these bonds for, to wit: eighty-five cents upon every dollar of said bonds.

When Mr. Cobb's name was called, he rose in his place and said:

MR. PRESIDENT:—I hold it due to myself to state that I believe this article to charge a breach of official trust, and in that light I vote Guilty.

When Mr. Connell's name was called, he said:

MR. PRESIDENT:—I vote Guilty for these reasons: 1st. That John W. Robinson employed an agent to dispose of these bonds

without authority of law, and in so doing he became responsible for his acts. 2d. That if Stevens acted as agent of the State, he was morally and legally bound to return to the State the whole amount, eighty-five per centum, for which he sold the bonds; if he was not the agent of the State, and had bought the bonds of the parties authorized to dispose of them, they were certainly guilty of misdemeanor, in disposing of them contrary to law. 3d. That in consenting to receive sixty cents on the dollar from Stevens, whether as agent or owner of the bonds, they violated the law, knowingly and willfully, and are, therefore, responsible.

When Mr. Keeler's name was called, he rose and said:

MR. PRESIDENT:—My reason for voting Guilty is that I believe John W. Robinson guilty of a breach of official trust.

When Mr. Stevens' name was called, he rose and said:

MR. PRESIDENT:—I respectfully ask the Senate to excuse me from voting. I ask this, sir, not because I have any doubt whatever of the innocence of the respondent, for I have no such doubt; but because I am charged, in the article, as being a joint actor and participator in the commission of the alleged High Misdemeanor, and my vote would be, indirectly, judging upon my own acts. For this reason alone, I ask to be excused.

Mr. Stevens was excused from voting.

Whereupon, the President declared that seventeen Senators having voted Guilty and four Not Guilty, John W. Robinson is pronounced, by the Senate of the State of Kansas, Guilty of the charges contained in the first Article of Impeachment exhibited against him by the House of Representatives.

The Secretary then read the second Article of Impeachment, and the President proceeded to take the opinions of the court in the preceding form.

The following gentlemen voted GUILTY in response to the Chair: Messrs. Bayless, Cobb, Curtis, Knowles, Lambdin, McDowell, Osborn, Rankin, Roberts and Spriggs.—10.

Those voting NOT GUILTY, were Messrs. Barnett, Connell, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Lappin, Rees and Sleeper.—11.

Whereupon the President declared that ten gentlemen having voted Guilty, and eleven gentlemen not Guilty, John W. Robinson, Secretary of State, is acquitted by the Senate of the State of

Kansas of the charges as contained in the second Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the third Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

The following gentlemen voted GUILTY in response to the Chair : Messrs. Cobb, Curtis, Essick, Knowles, Lambdin, McDowell, Rankin and Spriggs.—8.

Those voting NOT GUILTY, were Messrs. Barnett, Bayless, Connell, Denman, Holliday, Hubbard, Ingalls, Keeler, Lappin, Osborn, Rees, Roberts and Sleeper.—13.

Whereupon, the President declared that eight gentlemen having voted Guilty, and thirteen gentlemen Not Guilty, John W. Robinson, Secretary of State, is acquitted by the Senate of the State of Kansas of the charges as contained in the third Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the fourth Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

The following gentlemen voted GUILTY, in response to the Chair : Messrs. Bayless, Cobb, Connell, Curtis and McDowell.—5.

Those voting NOT GUILTY, were Messrs. Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—16.

When Mr. Hubbard's name was called, he rose and said :

MR. PRESIDENT :—I desire to state in explanation of the vote I am about to give, that while I have no doubt of the truth of the facts stated in this article, I do not think they constitute a *high misdemeanor*. I therefore vote *Not Guilty*.

Whereupon, the President declared that five gentlemen having voted Guilty, and sixteen gentlemen Not Guilty, John W. Robinson, Secretary of State, is acquitted by the Senate of the State of Kansas, of the charges as contained in the fourth Article of Impeachment, exhibited against him by the House of Representatives.

The fifth Article of Impeachment was then read by the Secretary, and the President proceeded to take the opinion of the Court in the previous form.

The following gentlemen voted GUILTY, in response to the Chair :

Messrs. Bayless, Curtis, Knowles, Lambdin, McDowell, Roberts and Spriggs.—7.

Those voting NOT GUILTY, were Messrs. Barnett, Cobb, Connell, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Lappin, Osborn, Rankin, Rees and Sleeper.—14.

When Mr. Cobb's name was called he rose and said :

MR. PRESIDENT :—This seems to me to be a new article, charging a conspiracy to cheat and defraud, and in explanation of my vote, I will say, that I do not think the charge is proved. I therefore vote, NOT GUILTY.

Whereupon, the President declared that seven gentlemen having voted Guilty, and fourteen gentlemen Not Guilty, John W. Robinson, Secretary of State, is acquitted by the Senate of the State of Kansas, of the charges as contained in the fifth Article of Impeachment exhibited against him by the House of Representatives.

The Secretary then read the sixth Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

Those voting NOT GUILTY, were Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—21.

Whereupon, the President declared that no gentlemen having voted Guilty, and twenty-one Not Guilty, John W. Robinson, Secretary of State, is acquitted by the Senate of the State of Kansas, of the charges as contained in the sixth Article of Impeachment exhibited against him by the House of Representatives.

The Secretary then read the seventh Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

Those voting NOT GUILTY, were Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—21.

When Mr. Cobb's name was called he rose and said :

MR. PRESIDENT :—I vote NOT GUILTY on the ground, that the charge contained in this article is not a misdemeanor.

Whereupon, the President declared that no gentleman having voted Guilty, and twenty-one Not Guilty, John W. Robinson, Sec-

retary of State, is acquitted by the Senate of the State of Kansas, of the charges as contained in the seventh Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the eighth Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

Those voting NOT GUILTY, were Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—21.

Whereupon, the President declared that no gentlemen having voted Guilty, and twenty-one gentlemen Not Guilty, John W. Robinson, is acquitted of the charges as contained in the eighth Article of Impeachment, exhibited against him by the House of Representatives.

The President then rose and recapitulated the votes thus :

On the first Article of Impeachment, seventeen gentlemen having voted *Guilty*, and four *Not Guilty* ; on the second, ten gentlemen having voted *Guilty*, and eleven gentlemen *Not Guilty* ; on the third, eight gentlemen having voted *Guilty*, and thirteen *Not Guilty* ; on the fourth, five gentlemen having voted *Guilty*, and sixteen *Not Guilty* ; on the fifth, seven gentlemen having voted *Guilty*, and fourteen gentlemen *Not Guilty* ; on the sixth, twenty-one gentlemen having voted *Not Guilty* ; on the seventh, twenty-one gentlemen having voted *Not Guilty* ; on the eighth, twenty-one gentlemen having voted *Not Guilty*—it therefore appears, that John W. Robinson is found Guilty of High Misdemeanor in office, as charged in the first Article of Impeachment, and is acquitted on second, third, fourth, fifth, sixth, seventh and eighth Articles.

The President then proceeded to take the opinion of the Court in the following form :

The Senate of the State of Kansas, sitting as a High Court of Impeachment, having found the respondent, John W. Robinson, Secretary of State for the State of Kansas, guilty of a High Misdemeanor ; is it the opinion of the Court that John W. Robinson should be removed from office ?

Mr. Holliday moved that the Senate go into Executive Session, which motion was lost.

The question recurring on the Proclamation of the President,

those gentlemen voting in the affirmative, were Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Essick, Hubbard, Keeler, Knowles, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—18.

Those gentlemen voting in the negative, were Messrs. Denman, Holliday and Ingalls.—3.

Whereupon the President declared that it is the judgment of the Senate of the State of Kansas, sitting as a High Court of Impeachment, that John W. Robinson be, and is removed from the office of Secretary of the State of Kansas.

The President then proceeded to take the opinion of the Senate in the following form :

That the Senate of the State of Kansas, sitting as a High Court of Impeachment, having found John W. Robinson *Guilty* of a High Misdemeanor, and having removed him from office ; is it the opinion of the Senate that the said John W. Robinson, be disqualified from holding an office of Profit, Honor or Trust, under the Constitution of the State of Kansas ?

Whereupon, the ayes and noes were taken, and the following gentleman voted in the affirmative, Mr. Knowles.—1.

And those gentlemen voting in the negative were Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Lambdin, Lappin, McDowell, Osborn, Rankin, Rees, Roberts, Sleeper and Spriggs.—20.

Whereupon, the President declared that one gentleman having voted in the affirmative, and twenty gentlemen in the negative ; it is not the opinion of the Senate, that John W. Robinson shall be disqualified from holding an office of Profit, Honor or Trust, under the Constitution of the State of Kansas.

TRIAL OF GEORGE S. HILLYER.

Messrs. Bayless, Cobb, Knowles, Lappin and Rankin came forward and took the following oath :

You, and each of you, do solemnly swear, that in all things pertaining to the trial of impeachment of George S. Hillyer, you will do impartial justice, according to the law and evidence, so help you God.

The President.—The Senate of the State of Kansas, sitting as a High Court of Impeachment, announces its readiness to proceed

with the trial of George S. Hillyer, Auditor of State of Kansas. Are the attorneys ready ?

Attorney General.—MR. PRESIDENT : By agreement of counsel and the Board of Managers, all the evidence heretofore offered in the matters of impeachment of John W. Robinson, will be considered as evidence in this case, (except that of George S. Hillyer,) as fully as if the witnesses had been sworn and testified in this case, and the depositions and documentary testimony had been offered and read in this case.

Present.—Hon. S. A. Stinson, Attorney General, and the Board of Managers on the part of the House of Representatives.

Hon. F. P. Stanton, Wilson Shannon and George W. Smith, counsel for Respondent.

George S. Hillyer appeared in person.

All parties announced themselves ready to proceed with the trial.

General J. C. Stone called and sworn on part of the prosecution.

Attorney General.—General, you reside in Leavenworth, I believe ?

A. Yes, sir.

Q. Were you in Washington during the past season ?

A. Yes, sir.

Q. What time were you there ?

A. I left Leavenworth about the fifth of December, and arrived in Washington three or four days after.

Q. What do you know in regard to the sale of bonds in Washington, last winter ?

A. I know nothing of it, but hearsay on the streets, or what was told me by the officers.

Q. What do you know from Mr. Hillyer in regard to it ?

A. I met Mr. Hillyer, and mentioned the rumored sale of our bonds, telling him that, as I had been a great deal about Washington, I would assist him if I could. He thanked me, and said he thought they would get along, and that Mr. Stevens was assisting them. After that, when I met him, he said they were getting along very well. Afterwards, that they had had a difficulty with the Secretary of the Treasury about it.

Q. Was anything ever said to you by the State officers in relation to this transaction ?

A. Nothing that I recollect.

Q. Do you know anything further in relation to it?

A. Nothing further.

Q. You were one of the commissioners appointed under the first act to negotiate the State bonds, were you not?

A. Yes, sir.

CROSS EXAMINATION BY DEFENSE.

Mr. Stanton.—Will you state whether, during the negotiations, you advised Gen. Lane to oppose them?

Witness.—No, sir; I advised him to be very cautious in the matter, as there would probably be an election for U. S. Senator in Kansas, and it would not do to allow money to be brought here till after that election. My reason for this was, that I heard Mr. Stevens was a candidate for the United States Senate, and I thought it would not be prudent to let him have that amount of money at that time.

Mr. Stinson.—General Stone makes a statement that he deems it necessary for him to return to Leavenworth to-morrow morning; therefore, we wish to examine him in the case of Governor Robinson.

Mr. Stanton.—We have no objection.

*General Stone was then sworn and testified in the case of State of Kansas against Charles Robinson, Governor.

On motion of Mr. Ingalls, the case of George S. Hillyer was postponed till to-morrow morning.

Mr. Stevens offered the following resolution:

Resolved, That witnesses in attendance at this trial be allowed the sum of — dollars per day for each day's actual attendance, and the same mileage as is allowed officers for serving subpoenas. Accounts for attendance and mileage to be verified by oath of witness, and approved by the President of the Senate.

Mr. Ingalls.—MR. PRESIDENT: I trust the Senate will give this matter careful consideration before taking final action. As one member of the Senate. I am earnestly opposed to defrauding the State, and oppressing the already over-burdened tax payers by any such action as that contemplated by the mover of this resolution. I entertain very serious doubts whether the witnesses for the defense

*See commencement of trial of Charles Robinson.

should be paid by the State at all ; certainly not, unless they have exercised the privilege of subpoena, with a very frugal and guarded discretion. That this has not been done is a matter of common notoriety. The most profuse and inexplicable use of the authority of this Court has been indulged in by some of the attorneys for the respondents, and, I presume, that it is within the knowledge of every Senator that nearly all the inhabitants of Topeka and Shawnee county have been summoned to appear here as witnesses in one or the other of the cases before us. Scores of idlers and vagabonds have attended the opening of our session, from day to day, with the avowed purpose of drawing their fees from the Treasury of the State. The adoption of the resolution proposed by the Senator from Douglas, will justify the defense in the course they have adopted in summoning their pimps and minions, the loungers on the streets, hostlers, bar-keepers, hangers-on, and all the vile rabble that infest the purlieus of a capital.

So far as the State is concerned the condition is different. Through its House of Representatives, it has ordered this prosecution, appointed its agents, and for their conduct it must be held responsible. I therefore move, as an amendment to the resolution, the following proviso :

Provided, That no witnesses for the defense shall be allowed compensation except those actually called.

Mr. Essick.—MR. PRESIDENT : I call the attention of Senators to the fact that the witness must swear to his bill of expenses before the Secretary, and the same must be approved by the President. There is also a law of the State regulating the amount to be paid to witnesses, on the part of the State, when summoned by the Legislature.

Mr. Ingalls.—I am credibly informed that there are persons in Topeka who declare they know nothing of the case, and yet will attempt to collect their fees.

Mr. Stevens.—MR. PRESIDENT : Let me ask the Senator how he proposes to act in relation to witnesses who, in good faith, have come here from a distance ? Some discrimination should be made, even if they have not been called.

Mr. Ingalls.—How is it possible to discriminate ? It is to be regretted, but the innocent must suffer, some times, that the just thing may be done.

Mr. Cobb.—MR. PRESIDENT: I think that the appointment of a committee to investigate the matter, will be the best method to reach the case.

Mr. Stevens.—MR. PRESIDENT: Some of the witnesses I have alluded to have been here and have already sworn to their accounts. Others have gone, but expect to return, at some future day, and prove them in due form.

Mr. Ingalls.—MR. PRESIDENT: I am just informed that the counsel for the defense intended to impeach Senator Lane, and that to accomplish this purpose thirty or forty witnesses were in attendance here from Lawrence. From some cause, unknown, the intention was abandoned. The witnesses were not called. They came from a distance. They attended in good faith, and the State is now to be asked to assume their expenses, to the amount of several hundred dollars—paying this exorbitant sum for the cheap vagaries and exploded theories of the defense.

The suggestion of the Senator from Douglas is impracticable. In the case of John W. Robinson, also, the number of witnesses subpoenaed was eighty-three, of whom only eight have been in attendance, and but two have been sworn. Under the Senator's resolution the State may be compelled to pay more than two thousand dollars, for what should have cost not more than a hundred. I trust the Senate will not permit such an outrage to be consummated.

Mr. Cobb.—MR. PRESIDENT: I move, as a substitute, that the whole matter be referred to a committee of three, with instructions to report to-morrow morning.

Mr. Stevens.—I withdraw my motion.

Mr. Holliday.—MR. PRESIDENT: I think that Mr. Cobb's motion is the best offered. I have been informed by witnesses, brought here from a distance, that they knew nothing of the case, but they came in good faith, because subpoenaed. Here is my friend Judge Wakefield—has been here every day of the session—and it is but fair that he should receive his fees.

Mr. Cobb.—MR. PRESIDENT: This committee will consider the plan offered by Mr. Stevens, or adopt some other just way.

The substitute of Mr. Cobb prevailed.

The chair appointed Messrs. Cobb, Hubbard and Sleeper, said committee.

On motion, the Senate adjourned.

TWELFTH DAY.

SENATE CHAMBER,
Saturday, June 14, 1862, 9 o'clock A. M. }

The Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the Chair.

Roll called. Quorum present.

Absentees.—Messrs. Denman, Essick, Hoffman, Holliday, Lappin and Lynde.

Journal of yesterday read and approved.

Present.—Hon. S. A. Stinson, and Board of Managers on the part of the House of Representatives.

George S. Hillyer, the Respondent, appeared in person, attended by his counsel.

Mr. Cobb, chairman of committee on the payment of witnesses' fees in the case of the State of Kansas, against John W. Robinson, made the following report :

MR. PRESIDENT :—Your committee to whom was referred the matter relating to auditing the claims of witnesses in attendance at this court of impeachment, would submit their report as follows : We recommend that a committee of three be appointed to investigate and audit all claims of witnesses subpoenaed on the part of the defense, in the cases at bar, and not sworn, the sitting of which committee for such investigation, shall be at such times and places as they may adopt.

In case they approve a claim, they shall indorse the bill, stating the amount allowed in the indorsement which shall be signed by the chairman, and which approval shall be proof of its validity. The powers of this committee shall cease at the rising of this session of the Senate.

That all other claims of witnesses be allowed as of course upon the usual and proper showing. That this committee be instructed to allow the claims of no one except it appears that he has responded promptly and in good faith to the process of the Senate, and left his business and came here for that purpose. That the fees and

mileage of all witnesses be the same as that allowed by law in the District Courts.

STEPHEN A. COBB,
Chairman.

Mr. Ingalls.—MR. PRESIDENT: Is this committee to sit until the meeting of the next Legislature? I understand that eighty-three witnesses have been subpoenaed to appear here in the case of John W. Robinson alone, which at two dollars per day, would amount to \$2,000 or \$25.00. I should think the Secretary, with some other gentlemen, might be authorized to audit these claims in vacation.

Mr. Cobb.—The witnesses in the District Court must come up and swear to their accounts before judgment is entered. I am not willing to confer such unlimited authority on any one outside of this body, although I have entire confidence in our Secretary.

Mr. Ingalls.—I made the suggestion for a good purpose, and not to afford any one an opportunity of either slandering or complimenting the Secretary.

Mr. Stevens.—MR. PRESIDENT: We have no right to make a law for witnesses. We should pay the just accounts of all those who have been here. It is not likely that the President will audit the accounts of witnesses whose claims are bogus. Those who have been here in attendance and whose claims are not audited, may have their remedy in memorializing the next Legislature, or they can sue out a *writ of mandamus*. These decisions of yours do not make the law. Last winter, the House of Representatives entered into an agreement with several printers', whereby a less sum per thousand ems than their contract prices was to be paid them. Mr. Cummings of the *Topeka Tribune*, has lately sued out a *writ of mandamus* before the Supreme Court, and compelled the State to pay him the full contract price, without regard to the conditions made by the legislative committee. The State can be compelled to pay these witnesses' fees. They were summoned in good faith, and those who have attended have a right to their dues.

Mr. Holliday.—I wish to ask the Senator from Wyandott, what will be done with the remainder of these accounts?

Mr. Cobb.—The probability is that these claims will lay over till the meeting of the next Legislature.

Mr. Stevens.—How can you compel witnesses to await the sitting of the Legislature, when they have a legal claim for fees?

Mr. Essick.—I am in favor of adding the President and Secretary to the committee.

Mr. Holliday.—This is good as far as it goes, but I will go farther. Let this committee submit the claims acted upon, to the Senate, and let the bills be prepared as usual, the whole Senate to be an investigating committee. I, therefore, offer the following amendment:

Resolved, That when a claim is approved, that the committee shall report the same to the Senate for its approval or disapproval, and, if the same be approved, the usual order shall be drawn by the Secretary and President.

Mr. Stevens offered the following as an amendment to the amendment of Mr. Holliday:

Resolved, That the fees of witnesses shall be two dollars per day, and mileage at the rate of ten cents per mile.

The roll was called on the question, "Shall the amendment offered by the gentleman from Douglas, to the amendment offered by the gentleman from Shawnee, prevail?" Lost.

The roll was called on the amendment offered by the gentleman from Shawnee. Lost.

The question "Shall the original report of the committee be adopted," resulted as follows:

Gentlemen voting aye, were Messrs. Barnett, Bayleas, Cobb, Connell, Curtis, Denman, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Roberts, Sleeper and Spriggs.—17.

Gentlemen voting in the negative, were Messrs. Essick, Rankin, Rees and Stevens.—4.

And so the report of the committee as submitted, was adopted.

Mr. Barnett rose to a privileged question, and read the following statement:

MR. PRESIDENT:—Since the rendition of the judgment of the Senate yesterday, in the case of John W. Robinson, statements of a startling character have been made to myself and another Senator. Statements, which if true, must render the entire proceedings of this body, not only null and void, but disgrace the entire State; that I feel compelled to bring the matter to the knowledge of the Senate, and insist that some action be taken thereon before another step is taken in the other cases, to be hereafter considered.

It has been stated, Mr. President, that sometime during Thursday, the 12th inst., a Senator of this body, approached a gentleman of this city, (not a member of the Senate,) and told him that seventeen Senators would, as matters then stood, vote to impeach John W. Robinson. But that he, (the Senator,) could control three or four votes, and if he could be paid three thousand dollars in cash, he would get up in the Senate, advocate an acquittal, and thus secure it by means of the votes he could control. This Senator further stated that his vote alone would secure an acquittal, as but seventeen Senator's, including himself, could be induced to give a verdict of guilty, and that he would, for \$3,000 in cash, vote for acquittal.

During the afternoon of Thursday, the same person called on the Senator, and offered him \$3,000 in scrip, in case his vote and influence was cast as he proposed. The Senator declined to take scrip, saying, "it was not enough." Again, on Friday, at noon, the party called upon the Senator with \$3,000 in cash, and told him he was ready to give it on the condition proposed by himself. The Senator replied, "It is too late."

Mr. Barnett.—I wish this paper to go on the Journals, and the Senate to take action on it. These are grave statements, and if there is a member of this body of the character charged, the affair should be investigated.

Mr. Curtis.—MR. PRESIDENT: I should like to know if this Court was constituted to impeach itself? If we listen to all the threats and rumors that are, or may be set afloat, we will have more on our hands than we can attend to.

Mr. Barnett.—The gentleman who was conversing with me, said he was the person to whom the offer was made, and who offered the money. He did not give me the name of the Senator, and said he would not do it under any circumstances.

Mr. Ingalls.—MR. PRESIDENT: As I did not vote with the majority, no suspicion can be attached to me, but, as a member of this Senate, I feel that a charge of so grave a nature, involving not only our own reputation, but that the good name, family and fortune of a man, has been sacrificed for money, ought to be investigated at once. The matter deserves at our hands a serious and immediate investigation. It is our duty to demand from the Senator from Brown, the name of his informant; and to summon the party to

appear before the Senate and testify as to this matter. While we are discussing preliminaries, it may be that the party is escaping to the Indian Reservation, beyond the jurisdiction of the Senate. Let us have immediate action.

Mr. Cobb.—I feel it due to myself to have this matter investigated. I am one who voted for the conviction of John W. Robinson ; I did it conscientiously, and if there is one who voted dishonestly, let us know him.

Mr. Roberts.—MR. PRESIDENT: I feel as though we ought to purge our own body before we proceed any further.

Mr. Keeler.—MR. PRESIDENT: I am one who voted for the conviction of John W. Robinson. I think it was a just judgment; but let us have an investigation; for I now give notice that, if this matter is not cleared up, I will move for a reconsideration of the verdict of the Senate, and ask for a new trial.

Mr. Cobb submitted a resolution, appointing a committee of five to investigate the charges, and report to the Senate.

Mr. Rankin.—MR. PRESIDENT: I am opposed to the appointment of such a committee. Let us have an investigation here and immediately. I prefer the subject should come before the Senate, and, therefore, oppose the raising of the proposed committee.

Mr. Hubbard.—Sir, the whole Senate is competent to examine this matter. Let us have it at once. We can as well attend to it in a body as otherwise. I trust that we shall postpone the trial of Mr. Hillyer, and proceed at once to examine into this grave charge.

Mr. Denman asked for the reading of Mr. Cobb's resolution, which was done, and then withdrawn.

On motion of Mr. Essick, the following order was adopted:

Resolved, That the Senator from Brown be requested to inform the Senate of the name of the person with whom he had the conversation referred to, and that the Sergeant-at-Arms be directed to bring him before this body immediately.

Mr. Barnett.—The name of my informant is J. F. Cummings, the editor and proprietor of the *Topeka Tribune*. He informed me he would not appear. The information was given in presence of another Senator.

Mr. Stevens.—MR. PRESIDENT: I would suggest that a subpoena be issued for Mr. Cummings.

Mr. Ingalls.—**MR. PRESIDENT:** I do not believe in waiting for a subpoena to issue. By time that is done, this person may be out of the jurisdiction of the Court. If this charge is not true, it is a gross violation and contempt of this body; and we have a right to demand the presence of this individual. I hope the Sergeant-at-Arms will be sent forthwith to bring this man Cummings before the Senate.

The Sergeant-at-Arms was ordered by the President to go in search of J. F. Cummings, and to bring him before the Senate forthwith.

Mr. Stanton submitted the following motion on the part of John W. Robinson:

The counsel for John W. Robinson move the Court to set aside the judgment in his case and grant a new trial, upon the ground that one or more Senators, in pronouncing the defendant *guilty*, averred that the decision was based upon the opinion that a principal is presumed, in law, to have notice of all the acts of his agent, and is criminally responsible therefor, which opinion is against law and subversive of justice.

WILSON SHANNON,
FRED. P. STANTON,
GEO. W. SMITH.

Mr. McDowell offered the following resolution, which was adopted:

Resolved, That the President of the Senate be and he is hereby authorized to examine any and all witnesses, touching the matter brought before the Senate by Mr. Barnett, the Senator from Brown county; and if any Senator desires to ask the witness or witnesses any question, he must do it in writing through the President.

The Sergeant-at-Arms returned with J. F. Cummings in custody,

President.—**Mr. Cummings**, charges of a grave nature, relating to the vote of a Senator, have been stated here by a Senator, and that you have knowledge of this. The Senate require you will state what knowledge you have of the transaction.

J. F. Cummings was now sworn to testify in relation to the alleged matter of corruption, set forth in the statement of Mr. Barnett.

Mr. Stevens.—**MR. PRESIDENT:** I suggest the reading of Mr. Barnett's statements.

Secretary read the statements made by Mr. Barnett.

President.—Mr. Cummings, you will notice your name is not included in that statement, but at a subsequent time, Mr. Barnett, in response to a vote of the Senate, stated that his information came from yourself.

President.—Mr. Cummings, did you make such statements; if so, who was the Senator?

Mr. Cummings.—Let me read that statement.

The paper was handed to Mr. C. After reading it, he said :

Now, what do you want to know?

Mr. President.—Did you make those statements to Mr. Barnett?

Answer.—Not in full, as is here noted. Some of the statements here I made.

Q. Did you, in substance?

A. I did, to some extent.

Q. Tell us what you did state.

A. I don't think I can give the statement made to Mr. Barnett. A man may take a drink sometimes, and I can't state what occurred. My memory is bad.

Q. Did any Senator make any such proposition as is there contained?

A. I talked with several Senators. I think if I had had two or three thousand dollars in cash, I could have made such an arrangement.

Q. Did any member propose such a thing: to vote against a conviction, in case you furnished him an amount of money?

A. If he did not propose it to me, I might have proposed it to him.

Mr. Barnett.—Mr. Cummings, did you not tell me these things?

A. I think probably; no very definite proposition was made.

Q. Did you not tell me you pulled out your pocket-book, with three thousand dollars, and offered it to him, and that he refused, and said "It was too late"?

A. I think it probable that I did so—don't recollect.

President.—Mr. Cummings, did any member of the Senate propose to you to vote against the impeachment of John W. Robinson, if you would furnish him an amount of money, or any other consideration?

A. He may not have done it directly.

Q. Did he indirectly?

A. That was my understanding of it.

Q. What was the conversation at the time?

A. There was a good deal of conversation.

Q. Give us the substance.

A. Don't think I can do it.

President.—Does the witness refuse to answer the question?

Witness.—I want the Senate to understand that I sometimes take a drink. My head is muddled. If the Senate will wait till Monday, I shall be better able to answer their questions.

Mr. Cobb.—MR. PRESIDENT: This examination and the conduct of the witness is certainly disgraceful. It is trifling with the dignity of the Court. My resolution for a committee was ruled down. I certainly think it more desirable and more likely to attain the end we seek, than the present investigation. This is a reckless disregard of the reputation of Senators. Any gentleman's character is at the mercy of this witness, who, by his own showing, is unfit to testify. He is in contempt of the Senate; and I trust that he will be compelled to answer.

Mr. Stevens.—I think, Mr. President, that we should go slow in this matter. What we want is knowledge. We may punish the witness by imprisonment; but when the Senate adjourns, he will go free. I suggest that, in order that the examination may be more regular, that Senators ask, in writing, such questions as they desire; or that the Attorney General, and one of the counsel for the defense, be requested to ask the questions. In that way, we will probably get at something more definite.

Mr. Cobb.—I think it altogether wrong to allow the matter to proceed in this shape. The reputation of the Senate, and of each individual member, is at the mercy of the innuendoes of this witness. A committee will reach the matter far more satisfactorily.

Mr. McDowell.—I trust, Mr. President, that the Senator from Brown will be allowed to resume his examination.

Mr. Barnett resumed the examination of the witness, with the following question:

Q. Did you not tell me that, after you offered the Senator the scrip, he said something to you about going to John W. Robinson?

Witness.—I don't recollect that he did.

Q. Did you not tell him that Robinson had no money?

A. I did.

Q. Who did the Senator refer you to?

A. He referred me to another Senator, to find out how Senators would vote.

Q. That is, how many would vote for impeachment?

A. Yes; to find the number of those who would vote guilty.

Q. Did you not state that you went to him with three thousand dollars in money, and he said "It was too late?"

A. I believe I told you that I said to him that he might draw upon me for a certain amount.

Q. Did he say "It was too late"?

A. My impression is that he said something of the kind.

Q. What did he say when you offered him the money?

A. I didn't offer him money. I said he might draw.

Q. Did the Senator tell you the amount, three thousand dollars, was not enough?

A. He did not say.

Q. When was this?

A. Yesterday, I think.

Q. What time?

A. Between nine and four.

Q. Before the Senate assembled in the afternoon?

A. My recollection is not clear, but I think it was.

Q. Where was it?

A. On the street.

Q. You know where it was?

A. I have a pretty good recollection of where it was.

Mr. Stevens.—MR. PRESIDENT: We shall arrive at no results in this way. I would suggest, in order to get on with the examination, that the President, or some one else, be authorized to question him direct, and reduce the questions and answers to writing. The reputation of both Senate and Senators is at stake, and we should use all our power to arrive at the facts. I move that the Attorney General, and the attorneys for the defense, should question the witness.

Mr. Stanton.—I shall be under the necessity, and I speak for my

associates, to beg to decline and be excused from taking any part in these proceedings. They remain entirely in the hands of the Senate.

Cobb.—I admire the wisdom of counsel. We are certainly able to interrogate this witness within ourselves.

Mr. Denman.—I suggest that Senators Ingalls, Cobb and Stevens, be appointed as a committee to question this witness. •

Mr. Ingalls.—MR. PRESIDENT: I must most respectfully decline, in advance of any such motion. I do not wish to appear, as in that case I might seem to do, in the light of a prosecutor, by showing that this verdict of guilty was obtained by collusion and fraud. Gentlemen will readily appreciate my position, I trust.

Mr. McDowell.—I move you that the President ask such questions as he may think best, and that Senators will write out their questions and submit them through the President.

The motion prevailed, and the examination of Mr. Cummings was resumed by the President.

The President.—Did you have a conversation with Mr. Barnett in regard to certain propositions made by you to any member of this body, for the purpose of obtaining his vote against the impeachment of John W. Robinson?

A. I had.

Q. What is the Senator's name?

A. I refuse to answer. I think that in a pecuniary transaction between me and a member of this body, or any other, I have a perfect right not to be interrogated.

Mr. Cobb.—I submit, Mr. President, that we had better let this question pass for a while.

President.—Where was this conversation?

Witness.—I had different conversations. I believe I talked once with Mr. Barnett. That was yesterday afternoon.

Q. What was the conversation?

A. I had rather let him state it.

Q. Was it given in the statement shown you from Mr. Barnett?

A. To some extent, it was.

Q. Did any member of the Senate, on Thursday last, state to you that there were seventeen members of the Senate ready to vote to impeach John W. Robinson?

The President read a portion of Mr. Barnett's statement to the witness.

Witness.—It may have been on Thursday. I think probably it was. I have had conversations with several Senators on the subject ever since this body has been in session. I so understood it, (the seventeen votes) from a member of the Senate.

Q. Did that Senator inform you that he could control three or four votes, if he could be paid three thousand dollars, or any other consideration ?

A. He said that if he took a certain position in the matter, as for instance, in favor of John W. Robinson's acquittal, other Senators would go with him. This was the substance of his remarks. He didn't say how many.

Q. Did he say anything about considerations ?

A. That matter was talked of previously.

Q. What did he previously say in regard to considerations ?

A. He said that it was supposed, or presumed, I was a friend of the State officers. I told him I was to every man. He said that if I would get him so much money, he would vote against impeachment. He said that \$5,000 was little enough ; that Bob Stevens had shystered the State officers, and ought to pay it now.

Q. What did you reply ?

A. That I had a certain amount of money, or its equivalent in my pocket ; that I never had had a word with any of the State officers or their attorneys in regard to the matter, but that I would give him what I had, and afterwards look to John W. Robinson or the State officers for my pay.

Q. Did you state to him what you had in your pocket, that you was willing to give ?

A. I don't recollect whether I did or not. I don't think that I made the statement to him, as to the amount I had in my pocket. I may have done so.

Q. What did you have in your pocket at the time ?

A. I had State scrip, and a few \$20 Treasury Notes. I think I may have had \$4500 in scrip.

Q. What is your recollection as to the amount you were willing to give ?

A. About \$2,000.

Q. Was this to be in scrip ?

A. He understood from me that I had nothing but scrip ; he wanted money.

Q. Did he refuse to take the scrip ?

A. He refused to take anything from me, at that time.

Q. What did he say, when you refused to give anything but scrip?

A. When I said to him, "I have got so much here, and you can take that," he replied: "You had [better] go and see Bob Stevens, and find out from him just how the matter is going: that seventeen will certainly vote for impeachment; that Bob had got the money and ought to pay it."

Q. For what reason did he refuse to take anything from you?

A. I never really offered anything to him. If I had had it in my fingers, I don't think it would have been refused. But I understood that he wanted somebody else to give the money first, as he did not wish me to loose by the transaction.

Q. Did you have a conversation with the same Senator, subsequent to that time, on the same subject?

A. I did.

Q. When was it?

A. On yesterday, before the afternoon session of the Senate.

Q. Do you recollect where this conversation took place?

A. I do.

Q. Where was it?

A. On Kansas Avenue, between 6th and 7th streets.

Q. What was the conversation?

A. I told him he might draw on me for \$3,000, if he wanted to, and he replied "It was too late."

Q. Did he say anything further at that time?

A. He said he would like to see me before three o'clock. I did not see him again.

Q. What was the amount he last told you he would take to vote against the impeachment of Robinson?

A. I think that at the time the matter was not set up in that shape. Nothing was said about that, except in the first conversation, then he said he ought to have \$5,000.

Q. Did he say, at any time, that he would vote against the impeachment of John W. Robinson for \$5,000?

A. He held out that idea, very emphatically.

—Mr. Cobb.—MR. PRESIDENT: I have listened patiently, thus far, to these very extraordinary proceedings. Early in the examination,

I submitted a motion for the appointment of a committee of investigation. I now propose to renew that motion in this form :

Resolved, That a committee of five be appointed to investigate the charges of bribery and corruption against a member of this body, with full power to send for persons and papers, administer oaths, and to compel the attendance of witnesses, and replies to their interrogations, to report to the Senate on its re-assembling Monday morning.

My object, Mr. President, in offering this resolution, is—for the purpose of dispatching business. I think a better and clearer investigation can be had through this committee. The scene here is certainly disgraceful. The witness has evidently been inebriated, and by his own statement his head is not clear this morning. I shall press this motion to a vote.

Mr. Keeler.—I trust, Mr. President, that we will proceed with the investigation. Unless this matter is thoroughly sifted, I, for one, will refuse to sit as a judge in the case now pending. We owe it to ourselves to remove this dark cloud, and to cast out from us any Judas who may be found in our midst. Unless the matter is thoroughly examined, I again give notice, that if I can, legally, I shall move for a new trial in the case of Dr. Robinson.

Mr. Rankin.—I submit, Mr. President, if we are not now in a fair way of getting a full and legal investigation by this examination in open Senate? I hope the motion will not prevail.

Mr. Roberts.—I think it will facilitate matters, and enable us to get at the truth, and shall therefore vote for raising the committee.

Mr. Stevens.—MR. PRESIDENT : This motion of the Senator from Wyandott, seems to me, to effect no other purpose than to cut off the right of Senators to investigate this matter themselves. It is claimed that its adoption will expedite business. How will it? We are getting at the substance of the charge, it seems to me, in as speedy a way as can possibly be accomplished before any committee. I heard of this charge for the first time, last evening. Since then, investigating the affair, important statements have come to my knowledge. I shall probably ask some questions, and call other witnesses. Let us go on with the open investigation. The case has progressed so far, the people have heard it, and it is but proper that the whole matter be made public. If, as has been intimated, I have been "shystering," let the Senate and the community know the same. If there is a fraud, let us have it, and if, in the estimation

of any Senator, that would have ceased to be a fraud when I paid him \$5,000, let the Senate, by all means, know his name. I desire to push the investigation throughly.

Mr. Cobb.—MR. PRESIDENT: I do not believe the gentleman from Douglas is any more earnest than I am in this matter. And I am extremely anxious to get at the bottom of it. As the investigation is now being conducted, we may act hastily. The innuendoes of this witness may affect the Senate. The danger is, that we may drive from this body some innocent member of it, with blasted reputation and character destroyed. The matter deserves a calm and serious consideration. A fairer investigation can be had before a committee, upon whose report the Senate can act. It does not invalidate the action of this body, but as it seems to me, affords a fuller and fairer investigation.

Mr. Roberts.—MR. PRESIDENT: The proceedings, as they now progress, are blind and futile. Charges are made here against an imaginary Senator. There were seventeen of us who voted guilty. Let us first get at the name of the Senator. If there is any who may be charged with this corruption. I am opposed to groping blindly any longer.

Mr. Stevens.—The Senator from Wyandott indicates, Mr. President, that I desire to urge this matter to a hasty conclusion. This is not my wish or desire. I want the Senate to take days, or weeks, if necessary, in the investigation; to call other witnesses, bring rebutting testimony, if necessary. Let us have the facts of the conversation between this Senator and the witness. Suppose he refuses to answer the second question as to the Senator's name, when it is again asked, we may get at the facts by other questions. I have sent up a question which will start a new track, and perhaps throw some light on the subject.

Mr. Cobb.—I trust that the Senate will not allow this witness to be released from the custody of the Sergeant-at-Arms, until the Senate dismiss him.

The question then recurring on the motion of the Senator from Wyandott, the roll was called, and the motion was lost by the following vote:

Messrs. Cobb, Knowles and Roberts voting aye.—3.

Messrs. Barnett, Bayless, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Lambdin, Lappin, McDowell, Rankin, Rees, Sleeper, Spriggs and Stevens voting no.—18.

The examination of J. F. Cummings was then resumed, Mr. Stevens asking the following question through the President :

Did this Senator, in any conversation, say that he could receive any sum of money, or any other consideration for voting for conviction ?

Witness.—He said he might get an office, worth \$2,000 a year, for voting for the impeachment.

By the President.—Was any third person present during any of your conversations with this Senator ?

A. No, sir.

Q. Did you communicate that conversation to John W. Robinson ; and if so, what was his reply ?

A. I did, and he said " that I might do as I pleased, that he had offered me nothing, and no one else, to procure his acquittal."

By a Senator.—You stated that, if you made the arrangement, you would look to the State officers or John W. Robinson, for the repayment of the money. You afterwards stated that you had no conversation or understanding with the State officers, or their attorneys.

Did you have any conversation or understanding with any one, representing one or more of them, or was anything said to you about securing a vote or votes, to acquit John W. Robinson ?

Witness.—I have had no conversation with John W. Robinson, nor with any of the State officers, or with any of their attorneys, or any one of them, in relation to the procuring of any such arrangement.

The President.—How did the Senator finally vote in the case of John W. Robinson ?

Witness.—I refuse to answer the question. I was not here, and don't know how he voted.

By suggestion of a Senator, the Journal recording the votes was shown the witness, who still refused to answer. The examination was resumed.

Q. What motive prompted you to engage in this transaction with said Senator ?

A. The Senator himself prompted me ; I had no such idea until he made the proposition. It was generally understood, in outside circles, that the man could not be convicted.

Q. Did you ever, before the judgment of the Senate was rendered,

communicate any of this conversation with Mr. Stevens, or speak to him about it?

A. I think not. I wanted, or intended to see Mr. Stevens, but think I had no conversation with him before the judgment. I know I did not.

Q. To whom did you speak about this conversation?

A. To one of Robinson's attorneys.

Q. Which one?

A. George W. Smith.

Q. What was the substance of the conversation?

A. I gave him to understand that I had offered so much money, on my own responsibility, and that afterwards I would expect to have the money returned, if none was handed to me before. He thought I was "shystering," and wanted to make money out of it. Since that time I have been informed, that he has said I was about right, that it was sympathy, and not money, that prompted me.

Q. Have you conversed with the Senator since that time?

A. I have.

Q. When and where?

A. I conversed with him this morning in a room of the Ritchie Block.

Q. What room?

A. It was in the third story, a room occupied as a sleeping room, I believe, by two of my boys. We were talking mostly about private matters.

Q. Was the subject of the impeachment of Robinson talked of at that time?

A. It was.

Q. What was said about the impeachment?

A. Our conversation was generally about private matters. The impeachment was thrown in sideways. The sum and substance was a private and pecuniary transaction between him and myself.

Q. Did that pecuniary and private transaction relate to the impeachment?

A. It did, somewhat.

Q. What was then said in regard to the impeachment?

A. I refuse to answer. I understood our conversation to be perfectly private.

Mr. Cobb.—MR. PRESIDENT: If this question does not criminate the witness himself, we have a right to an answer, I trust the Senate will maintain its dignity.

The witness again refused to answer.

Mr. Hubbard.—This witness is in open and flagrant contempt of the Court, and some action should be taken in the matter.

The question was waived and the examination proceeded with.

By the President.—Where did you first meet the Senator this morning?

A. Met in a hall or stairway in the Ritchie block.

Q. Was the Senator a Republican?

A. I don't think he has any political predilections.

Q. When did you have the conversation with George W. Smith referred to?

A. I don't recollect. It was two or three days since.

Q. What Senatorial District does the Senator represent?

A. I refuse to answer.

Q. What counties are represented in his district?

A. I refuse to answer.

Q. Is it on the north or south side of the Kansas river?

A. I refuse to answer.

By a Senator.—Did the Senator when he said he could get an office or place worth \$2,000, in case he voted for the conviction of John W. Robinson, state what kind of an office, if it was a State office, or an office under the United States?

Witness.—He intimated it would be an office under the General Government. I don't think Gov. Robinson would appoint him to any office.

Q. Did he state, or give you to understand, who would get this office for him, or assist him in getting the office referred to?

A. He intimated that it would come through our Senator or Senators at Washington.

Q. Did he name any Senator's name in connection with it?

A. I think he mentioned J. H. or James H. or Jim Lane's name in connection with it.

Mr. Curtis.—MR. PRESIDENT: I ask that the oath, administered to the witness, be again read. It is very evident he does not understand its nature or else willfully evades it. He has been sworn to

"tell the truth, the whole truth and nothing but the truth." To refuse to tell what is directly bearing upon the allegation is an evasion of the requirements of an oath. The manner of the witness shows, also, a disregard of the obligations imposed upon him by this oath.

The Secretary read the oath to Mr. Cummings. He replied :

I know what it means. I shall tell only part of what occurred, however.

Mr. Curtis.—This reply shows that the witness does not know the nature of this oath, or consider it binding. I hope the Senate will take some action in the matter.

EXAMINATION OF J. F. CUMMINGS RESUMED.

By the President.—Did you tell George W. Smith what Senator it was ?

Witness.—I did not.

Q. Have you told any person what is the name of the Senator referred to ?

A. I have not.

Q. What is the name of the Senator ?

A. I refuse to answer.

Q. Why do you refuse to answer ?

A. I refuse to answer that question.

Mr. Cobb.—MR. PRESIDENT : This brings us to a point where action, on the part of the Senate, is necessary. This witness is in contempt. We owe it to ourselves to take some step in the matter.

Mr. McDowell.—With the permission of the chair, I will move that the Senators now be sworn, and that each be questioned as to his knowledge of the matter alleged by the Senator from Brown.

Mr. Ingalls.—Who makes that motion ?

Mr. McDowell.—I do.

Mr. Ingalls.—Does the Senator from Leavenworth intend that each Senator shall be sworn separately and interrogated as to his knowledge of the alleged corruption ?

Mr. McDowell.—I do. In making this motion, Mr. President, I feel it due the Senate, as well as myself, that we each and all purge ourselves of this charge. Let each Senator be sworn in his place.

to answer, truly, such questions as may be propounded in relation to his knowledge of the charges.

Mr. Essick.—Does the Senator mean all questions that may be asked?

Mr. Ingalls.—It seems to me, Mr. President, that the course proposed by the Senator from Leavenworth would open the field to unlimited interrogation. The matter can be brought within the compass of one or two questions. If the Senator will withdraw his motion, a substitute can be easily arranged, covering all he desires.

Mr. McDowell withdrew his motion.

Mr. Ingalls.—I move that Mr. Cummings, the prisoner at the bar, be remanded to the custody of the Sergeant-at-arms, to await the further action of the Senate.

The motion prevailed and Mr. Cummings was removed from the bar.

On motion of Mr. McDowell, the Senate adjourned till two P. M.

AFTERNOON SESSION.

Two o'clock P. M.

The Senate of the State of Kansas, sitting as a High Court of Impeachment, assembled.

President in the chair.

Roll called. Quorum present.

Mr. Ingalls moved that each Senator be sworn in his place by the Secretary, and the following questions be propounded to him by the Secretary of the Senate:

1st. Have you ever had any conversation with J. F. Cummings in reference to the impeachment of John W. Robinson?

2nd. If yea, state when, where, and what was the substance of said conversation?

3rd. Did you, ever at any time, make any proposition or intimation to J. F. Cummings that any pecuniary or other consideration would influence your decision, or that of any other Senator, in said impeachment?

4th. Have you had any conversation or interview with J. F. Cummings this morning, or at any time to-day, in the third story of the Ritchey block in the City of Topeka?

5th. Do you know anything touching the matter now under consideration before the Senate, except from the testimony and statements made to-day in the Senate?

The motion was adopted.

Mr. Ingalls.—I move that the Sergeant-at-arms bring Mr. Cummings before the bar of the Senate. I make this motion, Mr. President, because I consider it but fair to the witness that he should be present, before Senators answer these questions, in order that he may have an opportunity to purge himself of the contempt of which he has been guilty to this body. I submit, to the consideration of the Senate, whether action should not be postponed until Mr. Cummings is before the bar.

The motion was adopted.

Mr. Cummings appeared before the bar in the custody of the Sergeant-at-Arms.

The President.—Mr. Cummings, a motion has been adopted by the Senate that the following questions be propounded to each Senator, who will answer them under oath. It is thought proper that you should be present. The Secretary will read the motion and questions.

The Secretary then read them.

The President.—Mr. Cummings, if you now desire to answer the question which was propounded to you this morning, as to the name of the Senator, you have an opportunity to do so.

Witness.—And I still refuse to answer.

On motion, the roll was then called and each Senator answered thereto, except Messrs. Lynde, Morrow and Hoffman, who had previously been excused from the call.

Mr. Ingalls.—MR. PRESIDENT. I suggest, in order to give a greater solemnity to this important occasion, that each Senator shall, on his name being called, rise in his place and remain standing while the oath is administered by the Secretary, and the questions answered.

Each Senator present, except Mr. Sleeper, stood in his place and took the following oath :

You do solemnly swear that you will true answers make to such questions as may be propounded to you by the Secretary, touching the charges made by Senator Barnett, so help you God.

Mr. Barnett, in answer to the first interrogatory, said: I had a conversation with him yesterday, the substance of which is in the statements presented by me this morning. I have had no other conversation. To the second he said: Yesterday evening, in this room, after the adjournment of the Senate, I had the conversation related in that statement. To third, fourth and fifth he answered in the negative.

Mr. Bayless, in answer to the first interrogatory, said: I never spoke to him in my life.

Mr. Cobb answered all in the negative.

Mr. Connell answered all in the negative.

Mr. Curtis answered all in the negative.

Mr. Denman answered all in the negative.

Mr. Essick answered all in the negative.

Mr. Holliday, in answer to the first interrogatory said: I have had several conversations with Mr. Cummings in regard to the case of John W. Robinson. In answer to the second said: My social and business relations with Mr. Cummings have been very intimate. I have talked with him, as with other persons, frequently on the subject. I cannot now recollect any particular occasion, or the exact purport of any such conversation; but in no such conversation was any reference had to the charges made by Senator Barnett. To the third interrogatory he answered in the negative. To the 4th he said: I have; but such conversation was wholly private, and had no reference, whatever, to the impeachment case. To the 5th he replied negatively, except as above stated.

Mr. Holliday.—MR. PRESIDENT: In explanation I wish to state to the Senate that my position, as President of the Topeka Town Association, brings me into frequent relations with Mr. Cummings, who acknowledges most of the deeds. This business leads me to his office daily. I make this statement because of a remark made in executive session, the day before yesterday, while the subject of impeachment was under discussion by the Senator from Lyon, Mr. Sleeper. It will be remembered that I advocated a postponement of the judgment. It was asked why Senators were urgent in the mat-

ter? The Senator from Lyon spoke, in his seat: "Because they did not wish to wait to sell out." I spoke to him afterwards on the matter and he said: "The remark was caused by the fact that Cummings was blowing, on the street, that he could buy the Senate for Dr. Robinson, for two or three thousand dollars."

Mr. Hubbard answered all the interrogatories in the negative.

Mr. Ingalls answered all in the negative.

Mr. Keeler answered all in the negative.

Mr. Knowles answered all in the negative.

Mr. Lambdin answered all in the negative.

Mr. Lappin, in answer to the first interrogatory, said: I have. To the second: Mr. Cummings asked me how I voted on the removal of Dr. Robinson, and I informed him. To the third, fourth and fifth, he answered negatively.

Mr. McDowell answered all in the negative.

Mr. Osborn answered all in the negative.

Mr. Rankin answered all in the negative.

Mr. Rees answered all in the negative.

Mr. Roberts answered all in the negative.

Mr. Sleeper took the following affirmation:

You do solemnly affirm that you will true answers make to such questions as may be propounded to you by the Secretary, touching the charges made by Senator Barnett; this you do most solemnly affirm, under the pains and penalties of perjury.

In answer to the first interrogatory, said: I have. To the second: Mr. Cummings came to me one day this week, in this house, and said: "That a Senator had offered to sell out his vote." I asked for his name, which he refused, and further said it was not in the power of the Senate to make him tell. To the third and fourth he answered in the negative. To the fifth: Only the conversation to which I alluded.

Mr. Spriggs answered all in the negative.

Mr. Stevens, in answer to the first, said: Never, so far as the same relates to the matter under consideration, until last evening. To the second: Last evening, in this hall; it was, in substance, same as stated by Mr. Barnett. To the third and fourth, negative. To the fifth: Nothing but what I have heard from third parties.

Each Senator having answered the questions propounded to him, Mr. Sleeper rose and said:

MR. PRESIDENT:—As the remark may seem harsh, to which the Senator from Shawnee has alluded as made by me, I wish to make this explanation: Some Senators wished to postpone, to which I was opposed. The question was asked why the matter was urged, to which I replied, as stated by the Senator. That Senator thought the remark was personal, and asked an explanation, which I gave, as he has stated. I did not follow up the matter, as I did not consider Cummings' remarks worthy of notice, or a matter of much consideration.

President.—Mr. Cummings, I have put this question, and I repeat it: "What was the name of the Senator?"

Witness.—And yet I refuse to answer. It may become necessary for me to give the name in order to vindicate myself, but at present I do not wish to make any reply other than I have done.

On motion of Mr. Ingalls, the Senate went into executive session.

After some time spent therein, the doors were thrown open, and the Senate resumed the usual order of business.

Mr. Cobb offered the following resolution, which was adopted:

Resolved, That it is the opinion of the Senate, that the charges against a member of this body of corruption, are untrue, and that no further action be taken in the premises.

On motion of Mr. Ingalls, J. F. Cummings was discharged from the custody of the Sergeant-at-Arms, and sent hence without day.

On motion, Senate adjourned.

THIRTEENTH DAY.

SENATE CHAMBER,
Monday, June 16, 1862, 9 o'clock A. M. }

The Senate of the State of Kansas, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the chair.

Quorum not present.

Sergeant-at-Arms sent for absentees, and returned with Mr. Holiday. Quorum now present.

Journal of Saturday read and approved.

Present—Hon. S. A. Stinson and the Board of Managers, on the part of the House of Representatives.

Hons. F. P. Stanton, Wilson Shannon, and George W. Smith, counsel for respondent.

George S. Hillyer appeared in person.

Mr. Ingalls offered the following resolution, which was adopted:

Resolved, That no further proceedings, in the cases now pending, be printed for the use of the Senate.

The case of George S. Hillyer was resumed.

John W. Robinson called and sworn to testify on the part of the State.

[JOHN W. ROBINSON'S TESTIMONY.]

Attorney General.—Doctor, are you acquainted with George S. Hillyer?

A. Yes, sir.

Q. He has been acting as Auditor, has he not?

A. I think he has.

Q. Will you state what connection he had with the sale of the seven per cent. bonds?

A. I think he was the principal officer who sold the bonds. We were both engaged in the sale.

Q. Where were they sold?

A. In Washington,

Q. Who to?

A. R. S. Stevens.

Q. At what price?

A. At sixty cents.

Q. When did Stevens first make propositions to buy these bonds, or any part of them?

A. Some kind of proposition or random talk was had, about the middle of October.

Q. Where was that talk had?

A. The first talk was had in the Governor's office; I don't remember any other.

Q. What talk did you have in the Governor's office?

A. It was simply a talk between the Governor, Hillyer and myself, in relation to our authority, under the law, to sell the bonds.

Q. Was Mr. Stevens present at that time?

A. He was, a part of the time.

Q. Was any proposition made by him, at that time, to purchase the bonds, or any part of them?

A. We talked about selling a part at forty cents and a part at seventy cents. This might be called a proposition. It was talk to that effect, at least.

Q. Were any bonds delivered to him in accordance with that talk or agreement?

A. No, sir, not that I know of.

Q. Was any written proposition made to this effect by Hillyer, or Hillyer and yourself, with Stevens?

A. I don't remember.

Q. Were any bonds, at that time, delivered to Mr. Stevens?

A. I don't remember. It was the first time I had any connection with the sale. I never saw any delivered. They never were in my possession.

Q. Do you know, from Mr. Hillyer, that any bonds were delivered at that time to Mr. Stevens?

A. I don't remember that he told me anything about it.

Q. Did you not know that any bonds were delivered to Mr. Stevens, prior to Mr. Hillyer's going to Washington?

A. Only from hearsay. I heard that Mr. Stevens carried some bonds to Lawrence for the Governor's signature.

Q. Did you hear from Hillyer?

A. Could not tell whom I heard it from.

Q. Did you have any conversation with Hillyer in relation to delivering any bonds to Mr. Stevens?

A. Not to my recollection.

Q. For what purpose did you go to Washington?

A. I went principally to visit my friends, not having the least idea, when I started, that I should have anything to do with the sale of bonds.

Q. Did you know, when you left for Washington, where the State bonds were?

A. I supposed Mr. Hillyer had them.

Q. When did you first become connected with the negotiation of these bonds?

A. At Washington. I signed some paper there which made Mr. Stevens agent to sell the bonds.

Q. At whose solicitation did you sign those papers?

A. It was a mutual agreement. Mr. Hillyer and Mr. Stevens asked me to sign it, and I had no hesitation, thinking it was the best that could be done.

Q. At whose instance (if any State officer) did Mr. Stevens come to Washington?

A. I think Mr. Hillyer telegraphed to him, which telegram I signed. There might have been a letter sent. Think there was.

Q. Among the depositions there is a paper purporting to be signed by the Governor, Auditor and yourself. Where and by whom was that paper signed?

A. It was signed in the city of Washington, by Mr. Hillyer and myself. I signed the Governor's name.

Q. By what authority did you put the Governor's signature to that paper?

A. I supposed by his authority, at the time.

Q. At whose request did you do it?

A. The question was debated. Some one had suggested that I should draw up the instrument, on account of my being the best penman. Then it was suggested to sign the Governor's name. Some remark was made that we knew he had given us authority so to do.

Q. By whom was that remark made?

A. I think it was made by Mr. Hillyer.

Q. Which paper was executed first: the paper authorizing him to retain all over sixty cents, or the paper with the Governor's signature to it?

A. The paper with the Governor's name to it.

Q. Were they not executed at the same time?

A. I think not.

Q. How much difference in time was there between them?

A. I could not tell. I was very busy about other matters when the papers were signed.

Q. By whom was the negotiation principally made on the part of the State?

A. I don't want to shirk my portion of the responsibility. I think Mr. Hillyer spoke to the parties a great many more times than I did.

Q. Was any effort made by Mr. Hillyer to dispose of bonds in Washington, except to Mr. Stevens?

A. I think Mr. Hillyer said he had made such an effort.

Q. To whom were these bonds sold by Stevens?

A. To the Interior Department, as I have heard.

Q. Did you and Mr. Hillyer have any conversation with Mr. Stevens as to the place or parties to whom these bonds were to be sold?

A. Yes, sir. I think he informed us that if they were disposed of at all, it would be to the Interior Department.

Q. Do you know of Mr. Hillyer making any inquiries at the Interior Department for the sale of these bonds?

A. Not of my own knowledge.

Q. At what price were they disposed of by Stevens?

A. Since I came back to Kansas, I have heard they were sold at eighty-five cents.

Q. Before you left Kansas, were you aware they could be disposed of in Washington?

A. No, sir, I was not aware of it.

Q. Had you any reason to believe they could?

A. I heard something about selling some bonds; not those, however, belonging to the State.

Q. Do you know what induced Mr. Hillyer to go to Washington to dispose of the bonds?

A. The desire to put funds in the Treasury, under the idea they could be sold there.

Q. Did you have any communication with him prior, in relation to it?

A. I do not remember whether I did or did not.

Q. Did you communicate to him your belief that any of the State bonds could be sold in Washington?

A. I don't remember the circumstances, but think it likely I did.

Q. At what price did you have reason to believe they could be sold for in Washington?

A. Well, sir, that was in reference to a private transaction of my own. I should be glad to have the Senate excuse me from answering. It had nothing to do with the State.

Q. Did you communicate what knowledge or information you had in relation to the sale of bonds, to Mr. Hillyer?

A. My impression is that I did.

Q. Was it not upon that knowledge and information Mr. Hillyer went to Washington?

A. No, sir, I think not.

Q. Did you have any conversation with Mr. Hillyer, as to where in Washington they could be disposed of?

A. I think I did.

Q. Where?

A. That was a matter equally private, which concerned myself and another individual, and no one else.

Q. What time did you and Mr. Hillyer arrive in Washington?

A. I started on the 28th of October. Mr. Hillyer the next day. I should have gone two weeks earlier, but failed to obtain some money. I arrived in Washington about the 8th of November. Mr. Hillyer arrived the day before me.

Q. Then you arrived in Washington the first weeks in November, did you?

A. It could not have been later than the 10th or 11th.

Q. To whom did you say they were sold?

A. To Mr. Stevens.

Q. At what price?

A. At sixty cents on the dollar.

Q. How many?

A. I think \$87,000 was about the amount which were to be sold.

Q. Do you know of your own knowledge, or from Mr. Hillyer, that any bonds were entrusted to Mr. Stevens prior to your going to Washington?

A. No, sir, I do not. As I said before, I did not keep any run of the bonds. I never had one in my hands belonging to the State, that I know of.

Q. What other bonds were placed in Mr. Stevens' hands, beside those belonging to the State?

A. Several individuals had bonds, which were put in Mr. Stevens' hands.

Q. Did Mr. Hillyer have any ?

A. I think he did.

Q. About what amount ?

A. Over \$1,000. I think about \$2,000.

Q. Were they sold to Stevens ?

A. They were.

Q. At what price ?

A. Mr. Stevens gave him seventy cents, I believe.

Q. What price was agreed upon between Mr. Hillyer and Mr. Stevens at the time he sold his individual bonds to him ?

A. I don't know that there was any price agreed upon at all.

Q. Was the State then the owner of \$150,000 of bonds ?

A. I cannot tell. Don't know what amount was paid in.

Q. Did you not know that a considerable portion had been used in redemption of State scrip ?

A. I knew that some had been, but did not know how much. I never visited the Auditor's office on that business, and don't know anything more of the transactions of his office than I do of yours.

Q. Do you know anything in relation to the coupons, what became of them ?

A. I think they went to Mr. Stevens.

Q. Were they delivered with the bonds to Mr. Stevens ?

A. I think so.

Q. What time were the bonds delivered to Mr. Stevens ?

A. I cannot tell from any data that I have now. It was not long before I started home.

Q. Were they delivered before or after the agreement between you, and Hillyer and Stevens ?

A. I don't know certain.

Q. Was it before, or after ?

A. I think after.

Q. Was any arrangement made by you and Hillyer, with Stevens, in relation to the coupons ?

A. I think the understanding was, that they should go with the bonds.

Q. Then the understanding between you was, they were to be sold to Stevens ?

A. That was my understanding.

Q. Was it understood between you and Mr. Hillyer ?

A. I have never said a word about it to the gentleman since.

Q. At the time ?

A. I don't think much was said.

Q. What was the conversation between you and Hillyer, in regard to it ?

A. There was only a word or two. I don't remember distinctly. I never looked at the law, not expecting to have anything to do with the sale of the bonds.

Q. Was it in regard to it ?

A. I think it was. I cannot remember any distinct conversation about it.

Q. For what purpose was the power of attorney, signed by Governor, Secretary and Auditor, executed ?

A. I can state no other object but what was contained in the instrument. I had no other object.

Q. Was it not made to facilitate Stevens' operations with the department ?

A. The primary object was to facilitate the sale.

Q. Was it not made with a view of the sale to the Interior Department ?

A. Yes, sir, I suppose it was.

Q. Why was it dated on the 25th of October ?

A. I do not know that I could tell you. I have no recollection that it bore any other date than that on which it was written.

Q. By whom was the paper written ?

A. Originally, in Mr. Stevens' hand writing. I don't know that I copied that paper. There was one paper copied by me. I would not swear that it was that paper, but have an impression that it was that one.

CROSS EXAMINED BY THE DEFENSE.

Q. When you speak of the contract, do you mean anything more than what appears by the paper ?

A. I think I have stated that once, that I did not.

Q. This is the paper to which I refer.* Is this the tract you made ?

A. That is the only contract, as I understand it.

*See page 15, Report of Investigating Committee.

Q. Do you remember if this document was executed near the close of the negotiations?

A. Yes, sir, very near the close of the negotiations.

Q. Do you remember withdrawing the bonds from Mr. Stevens' hands, before this contract was made?

A. I remember this: that I had an idea we could sell the bonds at seventy cents. Mr. Hillyer came once, and said Mr. Stevens would not give more than sixty cents, and I refused to take less than sixty-five cents. I then went to the Capital to hear General Lane speak.

Q. Was it after that, you executed this paper?

A. It was towards the very last day of my being in Washington.

Q. Why was it dated the third of December?

A. I did not know that it bore any other date than that upon which it was executed.

Q. Do you remember who drew this paper?

A. My impression is, that Mr. Stevens did. I would not swear to it. It is only my impression.

Q. Did you, at any time, have any information that the bonds could be sold for eighty-five cents?

A. No, sir, not till after I got back to Kansas.

Q. What was the highest amount you supposed they could be sold for?

A. I had reason to expect they could be sold at seventy cents.

Q. Did you, at any time, believe they could be sold for more than seventy cents?

A. No, sir. If I had, I should not have acceded to the trade.

Q. Was your information communicated frankly to Mr. Hillyer?

A. I spoke to him several times about it. The seventy cents which I was to receive for my own.

P. What induced you to suppose it was necessary to employ Mr. Stevens, to negotiate these bonds?

A. Gen. Pomeroy was the principal man who induced me to believe that Mr. Stevens was the only man. He said his business relations with Mr. Smith was of such a character.

Q. Did Gen. Pomeroy decline to make the negotiations himself?

A. Yes, sir, he did.

Q. Did you apply to him to make it?

A. Yes, sir, we did the very day I got there.

Q. Had Mr. Hillyer any interview with Gen. Pomeroy before your arrival?

A. I think he told me he had.

Q. Was his information from Mr. Pomeroy, the same as your own?

A. Yes, sir.

Q. Did you and Mr. Hillyer, or either of you, communicate your conclusions to General Pomeroy about taking sixty cents?

A. Yes, sir.

Q. What was his advice on the subject?

A. After I refused to take sixty cents, Mr. Hillyer said it would do the State great injustice in her then condition. I said I would go to Mr. Pomeroy. I did so, and told him all about it, and he advised me to stay.

Q. Did you communicate this conversation to Mr. Hillyer?

A. Yes, sir.

Q. What did you suppose Stevens was getting for the bonds?

A. I did not know, he said he could not afford to pay more than sixty cents.

Q. What light did you look on the difference between sixty cents and the amount he got?

A. As pay for him in making the negotiation.

Q. Did you know or suppose, he employed other persons to assist him in making the negotiations?

A. Yes, sir, I supposed he did.

Q. You said in your letter to Mr. Weir, you had called on the President. Was the statement correct?

A. I was at the President's levee; mentioned the bond matter to him after the close.

Q. Did you say the coupons were attached to the bonds when Stevens got the bonds, or did you know anything about it, of their being detached by Stevens?

A. If I have any distinct remembrance of it, it is that I saw Mr. Stevens in his own room, taking off some coupons, whether on the bonds of the State or not, I do not know.

Q. Do you remember if Mr. Hillyer declined to sign the Governor's name to the paper?

A. I think he told me I had better do it.

Q. Did he not say you had better do it if you had the authority?

A. That question was discussed, I thought I had such authority.

Q. Did he not say he had no authority?

A. I don't remember that he used such a remark.

Q. You had no authority to sign, only this kind of a paper, did you?

A. No other paper.

Q. What was the Governor's expression when he authorized you, as you supposed, to sign his name?

A. It was that he would consent to any arrangement that could be made, to sell the bonds.

Q. You inferred from that circumstance, you had authority to sign this paper?

A. I had no doubt of it.

Q. Did Mr. Stevens, or any one else, pay Mr. Hillyer for these negotiations?

A. Not to my knowledge.

Q. Or promise him anything direct or indirect?

A. Not that I have heard of.

Q. Was anything paid to you?

A. Not a farthing. I know I was \$250 out of pocket when I got home, and I always expect to be.

Q. Was there anything in the conduct of Mr. Hillyer, to lead you to believe that he was doing it for anything else than serving the public?

A. That is the only motive I supposed, or now believe, he had.

Q. What information induced you to believe it was necessary to make this sacrifice to get the negotiation accomplished?

A. It was stated in Washington, and, among other persons, by Gen. Pomeroy, that the bonds of other States were being pressed upon the market at forty cents. One of the north western States at forty cents, and if we made any noise, ours could not be sold at all.

Q. What information did you have, that led you to believe Mr. Stevens would incur any expense in making this negotiation?

A. I had no definite information, but owing to the character of those assisting Mr. Stevens, I thought his expense must be heavy indeed. Any gentleman who will go to Washington on similar business, will be satisfied of that fact.

Q. Can you state from your own knowledge, that it was in the knowledge of Mr. Hillyer, that it was necessary to make this sacrifice, in order to negotiate the bonds ?

A. He thought it was necessary to sell the bonds at that price, or they could not be sold at all.

Q. Had you an idea that Mr. Stevens was getting seventy cents ?

A. I supposed he might be getting seventy cents. I thought so from a certain private transaction of my own, sometime before.

By a Senator.—Did you know that the war bonds had been sold to the department at that time ?

A. I heard so. I did not know that Mr. Stevens had sold them nor who had bought them.

Q. At what price were they sold to the department ?

A. I heard at forty cents.

[G. W. COLLAMORE'S TESTIMONY.]

Gen. Collamore was called and sworn on the part of the prosecution :

Q. Gen. Do you know anything of the negotiation of the seven per cent. bonds ?

A. I do not.

Mr. Stanton.—We do not desire to cross examine.

Attorney General.—In behalf of the Board of Managers, I will state we rest our case.

Mr. Stanton.—The defense do not wish to offer any testimony.

Attorney General.—May it please the court, we waive the opening. I do this not for any sharp practice over the gentlemen, but because we think it not necessary.

[ARGUMENT OF HON. F. P. STANTON.]•

Hon. F. P. Stanton then addressed the Senate as follows :

MR. PRESIDENT AND SENATORS :

I would have nothing to say in this case, but would let it pass to your consideration without any argument, were it not that, in Robinson's trial certain points were made by the Attorney General, in conclusion, which we had no opportunity to answer ; and one of the Senators, in announcing his vote against the accused, stated a principle, which I believe to be unsound in law, as applicable to the circumstances of these cases.

The Attorney General assumes the ground that motive or intent has nothing to do with a case in which there is a violation of a positive law. It is sufficient, according to his view, if the party intended *to do the unlawful act*, no matter what may have been his motive or object.

This position seems to me to be not only inconsistent with the authorities, but utterly abhorrent to every mind imbued with the true principles of criminal justice as established by the common law. In all cases where errors and violations of law are committed, by persons having any thing like a judicial discretion, the penalties of crime are never inflicted unless a bad motive be established by proof. The same principle applies equally to ministerial officers whenever it becomes their duty to construe and execute laws. I apprehend that no such sweeping declaration of the entire immateriality of motive in criminal cases, was ever heard before in this, or any other country, where the common law prevails. If the principle be sound, then every political officer in the land will be liable to impeachment for every mistake, involving a violation of law, and no purity of motive, or innocence of intention, will be sufficient to screen him from the consequences.

I congratulate the defendants, however, convicted though they may be, upon the fact that the prosecution has been compelled to resort to such a ground in order to secure a triumph through your decision. The judgement of this body will be of little consequence, if it be based upon a principle which acknowledges the moral innocence of the parties condemned. You may possibly deprive the Secretary and Auditor of their positions for the unexpired portion of their terms, but you cannot deprive them of their good name, so long as you acknowledge them to be free from the taint of all corrupt or sinister motive.

I have alluded to the reason, given by one of the Senators, for his vote to convict, on the trial of John W. Robinson. I understood him to say that in pronouncing the defendant guilty upon the first article of impeachment, he did so because the law held him to be affected with knowledge of all his agent's acts, and made him criminally responsible therefor. I deny the soundness of this position, and I deny also its applicability in this case.

From the vote of Senators, in the case of Secretary Robinson, I take it for granted that the first Article of Impeachment is the only one upon which the present defendant will be liable to be convicted.

I shall therefore confine my attention to that article alone. The substance of the charge is this: that the defendant, Hillyer, authorized Stevens to sell the bonds at any price over 60 cents, and to account to the State for only sixty; that Stevens sold at 85, with the full knowledge of Hillyer; that inasmuch as the law limited the sale to 70, and Hillyer had full knowledge that the sale was made at 85, the State was defrauded out of its just rights. These are the effective statements of the charge.

Now I assert that the most material part of this statement is entirely untrue—proved to be so by the most positive and unshaken proof. I assume that the asserted knowledge of the defendant is the very gist of the offense described in the article; otherwise, it would not have been reiterated, over and over again, as it has been in this carefully drawn Article of Impeachment. *Hillyer knew that Stevens was getting 85 per cent. for the bonds. Yet he agreed to accept, for the State, only 60 per cent.* Such is the charge; but in order to correspond with the proof, it ought to run thus: *Hillyer did not know what Stevens was getting for the bonds; and, in his ignorance, he agreed to accept, for the State, only 60 per cent.* I insist that these two propositions, one of which is true and the other false, are as different and repugnant as two propositions can be. The latter represents the facts as they are established in testimony; the former is the substance of the charge as presented by the House of Representatives.

In the former trial I endeavored to show how the Secretary and Auditor had been designedly kept in ignorance of the facts by Mr. Stevens. Yet, in spite of this concealment by the agent, I understand it to be insisted that, even in a criminal case, a party is held to have knowledge of facts which his agent studiously conceals from him, merely because the relation of principal and agent exists between them. This is not a case in which the parties are engaged in a conspiracy, or in which the one is accessory to the crime of another. It was no crime—no violation of law—for Mr. Stevens to sell the bonds at 85 per cent. That was a perfectly lawful act. If there was any crime at all, it was in agreeing to take 60 per cent., knowing the bonds could be sold at 85. This knowledge is the very body of the crime; yet this is to be presumed, by force of some arbitrary rule of law, and in the teeth of overwhelming testimony to the contrary.

The contract between the two State officers and Mr. Stevens, has been spoken of as a sale of the bonds to him at the rate of 60 per

cent.; but this is not the legal purport of the instrument, as will be seen at once upon reading it as follows :

[COPY.]

This certifies that we have employed and constituted R. S. Stevens an agent on the part of the State of Kansas to negotiate and sell all the seven per cent bonds of said State, issued in accordance with the provisions of an act of the Legislature of the State of Kansas, approved May 1, 1861, and an act supplementary thereto, approved June 3, 1861, authorizing the issue and sale of one hundred and fifty thousand dollars of the bonds of said State; and we hereby agree to give him for his services as such agent, all and whatever amount of money he may receive for said bonds over and above sixty cents (60 cents) on the dollar; that is to say, for all the bonds, belonging to the State, which the said Stevens may sell, he is to pay into the State treasury the sum of sixty cents (60 cents) on each and every dollar]

Witness our hands this third day of December, A. D., 1861.

JOHN W. ROBINSON, *Secretary of State.*

GEO. W. HILLYER, *Auditor of State.*

Now, according to the terms of this instrument, Mr. Stevens was not constituted the agent of these defendants, but the agent of the State. It may be a question whether they had the power of substitution, but they undoubtedly assumed to place him in the position of agent for the State for the sale of these bonds. The relation, therefore, of principal and agent does not exist between the parties.

Neither does this instrument import a sale of the bonds to Mr. Stevens at 60 per cent. It is simply a stipulation that he shall have all over 60 per cent. as compensation for his services. Nor does this paper, in terms, authorize Mr. Stevens to violate the law of Kansas in the sale of the bonds, for the law is referred to in it, and therefore virtually made a part of it. View the matter in whatever aspect you may, you can make of it nothing more nor less than a contract to allow a contingent compensation to Mr. Stevens, dependent upon the rate at which the bonds might be sold. To this complexion it must come at last; and then it follows that the wisdom or folly, the innocence or criminality of the defendant, is to be determined by the state of their knowledge as to the value of the bonds and the probable rate at which they could be sold. The extravagance and enormity of the difference between the sum to be paid to the State, and that which was to be received by Mr. Stevens, gives

character to the transaction ; and just in the proportion that this difference was known to the defendants, were they responsible for consenting to its extravagance and enormity.

They were prohibited from selling the bonds at less than 70. They were, therefore, responsible for the difference between 60 and 70. The arrangement with Mr. Stevens allowed him 10 per cent. at all events. But this is a very different compensation from 25 per cent. If the defendants had any good reason to know or believe that Mr. Stevens would receive this large amount, they might be called upon to justify themselves. The facts, however, were artfully withheld from them. They were alarmed at the prospect of entirely failing in the negotiation ; and, in the view which they had of all the circumstances, they evidently felt not only authorized but compelled to submit to the terms demanded. But I have already argued this point, and I forbear a repetition of the argument. It is for you to determine, not whether it was wise and prudent for them to make the contract, but whether it was criminal and impeachable. An honest mistake—even a great error of judgment—is always excusable when the motive is good.

The Attorney General, in concluding the case of John W. Robinson, made an appeal which, I am sure, in his cooler moments, when not excited by the conflict of argument, he would never have made. He warned you of the greeting you would receive, at the hands of the people, if you acquitted the defendant. He spoke of the ploughman on the prairies, and referred you to him for considerations to control your judgement here.

The extraordinary principles of law, contended for in this case, are kindred in their character to this extraordinary appeal. They are worthy of each other, and I commend them both—the principles of law announced, and the popular appeal—as fit accompaniments to grace the results of this trial.

You are judges. You have taken an oath to do justice according to the law and the testimony. You ought to be very far removed from popular influences ; and, above all, such appeals to ignorant prejudice and passion. I appeal to your consciences and to the sacred obligations which rest upon you, to do justice, “ without fear, favor or affection.”

AFTERNOON SESSION.

TWO O'CLOCK, P. M.

The Senate, sitting as a High Court of Impeachment, met pursuant to adjournment.

President in the chair.

Roll called. Quorum present.

Present.—Hon. S. A. Stinson, and Board of Managers, on the part of the House of Representatives.

Hons. Fred. P. Stanton, Wilson Shannon and George W. Smith. counsel for respondent.

George S. Hillyer appeared in person.

On motion of Mr. Ingalls, the same order was observed in the case of George S. Hillyer, as was observed in the case of John W Robinson.

The President.—Gentlemen, you have heard the evidence and arguments upon the case of George S. Hillyer, and you will prepare to vote upon the first Article of Impeachment, which will now be read by the Secretary.

Secretasy read the first Article.

The President then took the opinion of the members of the Court, respectively, in the form following :

Mr. —, how say you? Is the respondent, George S. Hillyer, GUILTY or NOT GUILTY of a High Misdemeanor, as charged in this Article of Impeachment?

The following gentlemen voted GUILTY in response to the Chair: Messrs. Bayless, Cobb, Connell, Curtis, Essick, Holliday, Hubbard, Keeler, Knowles, Lambdin, McDowell, Rankin, Reas, Roberts, Sleeper, Spriggs and Mr. President.—17.

Those voting NOT GUILTY were Messrs. Barnett, Denman, Ingalls and Lappin.—4.

When Mr. Cobb's name was called, he arose in his place and said :

MR. PRESIDENT:—Allusion has been made to the votes of Sena-

tors on this floor in some instances, as though there was danger of their action conforming to the measure of popular opinion at home, rather than to the justice of the case at bar. When he entered upon the duties of Auditor of the State of Kansas, George S. Hillyer, with uplifted hand, in the presence of his God, took a solemn oath to support the Constitution and the laws. When I entered upon my duties as Senator and judge in this body, I also took a solemn oath to do justice to the respondent and the State, according to the law and the evidence. That no opinion of my constituents or elsewhere can influence my vote, I do not deem it necessary to disclaim. In the confines of my own breast, by the law, and the evidence before me, I have tried him; and I now perform the most solemn duty of my life, when I pronounce George S. Hillyer GUILTY upon the first Article of Impeachment.

When Mr. Stevens' name was called, he rose in his place and said:

MR. PRESIDENT:—For the same reasons as in the case of John W. Robinson, I make the same request of the Senate that I did then: to be excused from voting,

By consent, he was excused.

Whereupon, the President declared that seventeen Senators having voted GUILTY and four NOT GUILTY, George S. Hillyer is pronounced, by the Senate of the State of Kansas, *Guilty* of the charges contained in the first Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the second Article of Impeachment, and the President proceeded to take the opinion of the Court in the preceding form.

The following gentlemen voted GUILTY in response to the Chair: Messrs. Cobb, Curtis, Knowles, Lambdin, McDowell, Rankin, Roberts, Spriggs and Mr. President.—9.

Those voting NOT GUILTY were Messrs. Barnett, Bayless, Connell, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Lappin, Rees and Sleeper.—12.

Whereupon, the President declared that nine gentlemen having voted GUILTY and twelve gentlemen NOT GUILTY, George S. Hillyer, Auditor of State, is acquitted, by the Senate of the State of

Kansas, of the charges contained in the second Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the third Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

The following gentlemen voted GUILTY in response to the Chair: Messrs. Cobb, Curtiss, Lambdin, McDowell, Rankin and Spriggs.—6.

Those voting NOT GUILTY were Messrs. Barnett, Bayless, Connell, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lappin, Rees, Roberts, Sleeper and Mr. President.—15.

Whereupon, the President declared that six gentlemen having voted GUILTY and fifteen gentlemen voting NOT GUILTY, George S. Hillyer, Auditor of State, is acquitted, by the Senate of the State of Kansas, of the charges contained in the third Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the fourth Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

The following gentlemen voted GUILTY in response to the Chair: Messrs. Bayless, Cobb, Connell, Curtis and McDowell.—5.

Those gentlemen voting NOT GUILTY were Messrs. Barnett, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—16.

When Mr. Essick's name was called, he arose in his place and said:

MR. PRESIDENT:—In reference to the fourth Article, I believe Mr. Hillyer guilty of the facts charged, but do not think they constitute a misdemeanor. Hence I shall vote Not Guilty.

Whereupon, the President declared that five gentlemen having voted GUILTY and sixteen gentlemen voting NOT GUILTY, George S. Hillyer, Auditor of State, is acquitted, by the Senate of the State

of Kansas, of the charges contained in the fourth Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the fifth Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

The following gentlemen voted GUILTY in response to the Chair: Messrs. McDowell and Spriggs.—2.

Those gentlemen voting $\frac{1}{2}$ NOT GUILTY were Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, Rankin, Rees, Roberts, Sleeper and Mr. President.—19.

Whereupon, the President declared that two gentlemen having voted GUILTY and fourteen gentlemen NOT GUILTY, George S. Hillyer, Auditor of State, is acquitted, by the Senate of the State of Kansas, of the charges contained in the fifth Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the sixth Article of Impeachment, and the President proceeded to take the opinion of the Court in the preceding form.

The following gentlemen voted GUILTY in response to the Chair: Messrs. Knowles, McDowell, Roberts and Spriggs.—4.

Those gentlemen voting NOT GUILTY were Messrs. Barnett, Bayless, Cobb, Connell, Curtiss, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Lambdin, Lappin, Rankin, Rees, Sleeper and Mr. President.—17.

Whereupon, the President declared that four gentlemen having voted GUILTY and seventeen gentlemen voting NOT GUILTY, George S. Hillyer, Auditor of State, is acquitted, by the Senate of the State of Kansas, of the charges contained in the sixth Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the seventh Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

The following gentlemen voted NOT GUILTY in response to the Chair: Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—21.

Whereupon, the President declared that no gentlemen having voted GUILTY and twenty-one gentlemen having voted NOT GUILTY, George S. Hillyer, Auditor of State, is acquitted, by the Senate of the State of Kansas, of the charges contained in the seventh Article of Impeachment, exhibited against him by the House of Representatives.

The President then rose and recapitulated the vote thus:

On the first Article of Impeachment, seventeen gentlemen having voted Guilty and four Not Guilty; on the second, nine gentlemen having voted Guilty and twelve Not Guilty; on the third, six gentlemen having voted Guilty and fifteen Not Guilty; on the fourth, five gentlemen having voted Guilty and sixteen Not Guilty; on the fifth, no gentleman having voted Guilty and nineteen Not Guilty, on the sixth, four gentlemen having voted Guilty and seventeen Not Guilty; on the seventh, twenty-one gentlemen having voted Not Guilty; it, therefore, appears that George S. Hillyer is found Guilty of High Misdemeanor in office, as charged in the first Article of Impeachment, and is Acquitted on the second, third, fourth, fifth, sixth and seventh Articles.

The President then proceeded to take the opinion of the Court in the following form:

The Senate of the State of Kansas, sitting as a High Court of Impeachment, having found the respondent, George S. Hillyer, *guilty* of a High Misdemeanor, is it the opinion of the Court that George S. Hillyer should be removed from office?

Those gentlemen voting in the affirmative were Messrs. Bayless Cobb, Connell, Curtis, Essick, Holliday, Hubbard, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—18.

Those gentlemen voting in the negative were Messrs. Denman and Ingalls.—2.

Whereupon, the President declared that it is the judgment of the Senate of the State of Kansas, sitting as a High Court of Impeachment, that George S. Hillyer be and is removed from the office of Auditor of the State of Kansas.

The President then proceeded to take the opinion of the Senate in the following form:

That the Senate of the State of Kansas, sitting as a High Court Impeachment, having found George S. Hillyer *guilty* of a High Misdemeanor, and having removed him from office, is it the opinion of the Senate that the said George S. Hillyer be disqualified from holding an office of profit, honor or trust, under the Constitution of the State of Kansas?

The following gentleman voted in the affirmative: Mr. Knowles.—1.

Those voting in the negative were Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—20.

Whereupon, the President declared that one gentleman having voted in the affirmative and twenty gentlemen voting in the negative, it is not the opinion of the Senate that George S. Hillyer shall be disqualified from holding an office of profit, honor or trust, under the Constitution of the State of Kansas.

TRIAL OF CHARLES ROBINSON.

On motion of Mr. Ingalls, notice was given to the Managers of the House and the Counsel, that the Senate was ready to proceed with the trial of Charles Robinson.

Messrs. Bayless, Cobb, Knowles, Lappin and Rankin, came forward, and took the following oath:

“You do solemnly swear, that in all things pertaining to the trial of Impeachment of Charles Robinson, you will do impartial justice, according to the law and evidence. So help you God.”

The following agreement was submitted by counsel:

It is agreed, in open Court, between the Managers and Counsel: on the part of the House of Representatives, and the Respondent, that all the evidence heretofore offered in the matters of Impeachment of John W. Robinson and George S. Hillyer, be considered as evidence in this case as fully as if the witnesses had been sworn and testified in this case, and the depositions and testimony had been offered and read in this case.

EVIDENCE of Gen. J. C. Stone, mentioned as being taken on Friday, in the case of Charles Robinson, as per agreement:

Attorney General.—General, what, if anything, do you know of Governor Robinson's connection with the bond sale in Washington?

Witness.—Not anything.

Q. Do you know of any arrangement between the Governor and Mr. Stevens, prior to the sale?

A. I do not.

Q. Did you ever hear him allude to the war bonds?

A. I don't know that I ever heard him allude to the war bonds.

Attorney General to the Defense.—You can take the witness,

Mr. Stanton.—We do not wish to cross examine.

Gen. Collamore called and sworn on the part of the prosecution.

Attorney General.—I believe you have been acting as Quartermaster General of this State, have you not?

A. I have.

Q. What do you know of the war bonds issued under the act of May 7th, 1861?

On entering upon the duties of the office, those bonds were promised to me by Governor Robinson, to subsist and pay the expenses of transportation of the Kansas volunteers. At that time I supposed the Governor had control of them. About that time, a purchase of bacon was made of Mr. Morrow of Lawrence, under an agreement that he would take the war bonds at 100 cents on the dollar. I learned, subsequently, that the Governor had no control over those bonds. But before I was appointed, and before the bonds were created, I had written to parties East to ascertain if they could be sold there. The negotiation had so far proceeded that one gentleman wrote to me to send on the bonds. This was before I learned that the Governor had no control of the bonds. They could have been sold at par.

On the third of July, I met Mr. Dutton, who had control of the war bonds, at Lawrence, and asked him if he has disposed of those bonds? My object in the inquiry was to ascertain if, by producing my vouchers, I could obtain the money on them, I having spent nearly \$10,000. He was quite reserved in his manner towards me; so much so, that I followed him to Topeka. He left in the stage, and I came in my buggy. I met him in the office of Governor Robinson, and asked him "what he would sell \$10,000 of those war bonds for, providing I found a purchaser?" He replied "that was an impossibility;" to which I replied, "I thought not,"

and then repeated my interrogatory. He then said he was going the next day to Chicago to negotiate these bonds, and if any one had offers to make, he would consider them when he came back. I told him I had expended a large amount of money in subsisting and transporting the first and second Regiments, Kansas volunteers, and asked if I had my accounts audited, and a warrant drawn on the Treasury, if he would give me a corresponding amount of those bonds. He said "no!" This was on the evening of July third, in the presence and hearing of Governor Robinson. On the morning of the fourth I met Governor Robinson near the Topeka House, and spoke to him of the strange behavior of Mr. Dutton. The Governor said he thought Mr. D. did not understand my proposition, and that he would see him about it. I asked him to do so, and in case that he agreed, to have him leave a portion of the bonds with Mr. Hillyer, to be delivered to me on passing my accounts. He subsequently told me in Lawrence that Mr. Dutton had agreed to my proposition.

I subsequently wrote to Mr. Woodward, the Governor's private Secretary, for him to see Mr. Hillyer. His reply is dated 16th of July. If it is proper, I will read the contents of the letter, or so much thereof as refers to the transaction.

[COPY.]

EXECUTIVE OFFICE.
Topeka, Kansas, July 16, 1862. }

GEN. COLLAMORE.—Dear Sir: I am informed by Mr. Hillyer, that he is not authorized to deliver any bonds during the absence of the Treasurer. Says Dutton remarked to him that he had no authority to negotiate the bonds for anything but cash, and that for cash, he would as soon sell to Gen. Collamore as to foreign parties. Mr. Hillyer knew not that you tried to get a cash proposition from him. Says Mr. D. must have misapprehended your motive. Mr. H. suggests that you have your accounts audited as soon as convenient, and be prepared to present your warrants for payment as soon as the Treasurer returns; says you will receive the cash on them, for Dutton is determined to negotiate the bonds at some rate before returning.

Very Truly,

J. B. WOODWARD.

I dropped the subject then till some time in August, when something induced me to write to Dr. Woodward again. I wrote, inquiring if there was any funds, and received the following reply:

STATE OF KANSAS, EXECUTIVE OFFICE, }
Topeka, September 3, 1861.

GEN. G. W. COLLAMORE.—Dear Sir: On my arrival home, last evening, I found yours of the 31st ult. The State Treasurer is in town, but is as destitute of funds as when you last saw him, not having negotiated the bonds, as he anticipated. My private opinion is, that his failure to raise the money, has been a great source of mortification to him, being so confident prior to making the effort, that it could easily enough be done.

If I can make any inquiries that will be of service to you in any way, I will do it with pleasure.

Yours Truly,

J. B. WOODWARD

By Attorney General.—At the time you bought bacon, to be paid in war bonds at par, did you agree to pay market price or not?

Witness.—Before purchasing, I had the bacon examined by a gentleman whose opinion on the subject was better than mine. He pronounced the price a fair one for the article. I had told him that it was to be paid for in war bonds, and that they could be sold at par.

Q. At the time you proposed to take bonds to the amount of your vouchers, what had been expended besides?

A. I could not say, sir, only what came under my own observation.

Q. In your official capacity as Quartermaster General, are not the expenses supervised by you?

A. Yes, sir.

Q. Would not all legitimate expenses be shown by your vouchers?

A. They should be.

Q. Would the vouchers show the whole expenses incurred for the two first Regiments; transportation, &c?

A. Certainly they should.

Q. Was this proposition made in presence of the Governor?

A. It was.

Q. Was it ever stated by you in presence of the Governor, that they could be disposed of at par?

A. Yes, sir.

Q. At what time?

A. In the months of May or June, I think.

Q. Could they have been disposed of at that time for par?

A. They could, sir.

Q. To whom were they sold, if you know?

A. I only know by common report.

Q. Did you ever have any other conversation with Governor Robinson, in relation to these bonds, other than that you have stated?

A. In the month of May or June, I may have stated to Governor Robinson, several times, that these bonds could be sold for 100 cents on the dollar, but not since. I found the Governor had no control over them. I thought then, and still think, that he supposed at the time he had such control.

Q. Did you have any conversation in relation to these bonds, prior to the passage of the law?

A. Yes, sir.

Q. What was the substance of that conversation?

A. To this effect: That I had written to some eastern friends in relation to selling the bonds, should they be created.

Q. Did you state to him the information you received in reply?

A. I will not be positive that I did.

Q. What was that information?

A. I cannot state without reference to the letter received by me from Boston.

Q. How early in the season did you have your first conversation; when you told him you could sell at par?

A. I should think not far from the month of June.

Q. Did you ever have any conversation with the Governor in regard to the amount that was to be issued?

A. The amount was named as \$20,000. That was the amount that Governor Robinson said I could have to use.

Q. Who was the bacon purchased of?

A. Robert Morrow.

CROSS EXAMINATION BY DEFENSE.

Mr. Stanton.—Will you state from whom you received information that these bonds could be sold at par?

A. George L. Stearns. I also wrote to Governor Andrew. I have seen Mr. Stearns since, and not only his letters which I have now, but he himself has told me the bonds could have been sold.

Q. After they were issued did you inform Dutton?

A. No, sir.

Q. Did you inform Gov. Robinson ?

A. I informed the Governor that they could be sold for one hundred cents on the dollar.

Q. When did you give him the information ?

A. On the third of July.

Q. Where was it ?

A. In his office.

Q. In this city ?

A. Yes, sir.

Q. Who was present ?

A. Mr. Dutton.

Q. Why did you not inform Mr. Dutton where the bonds could be negotiated ?

A. Mr. Dutton was about to take them to Chicago for this purpose, and he behaved so strangely to me that I did not wish to have any more to do with him.

Q. You had the good of the State at heart, Mr. Collamore, why did you not tell Mr. Dutton that it was Mr. Stearns who wrote you ?

A. His behavior at the time, and refusal to name any price at which he would negotiate, as, also, his refusal to take par, made me think it was of no use.

Q. Did you offer him an hundred cents on the dollar ?

A. I did.

Q. For how many ?

A. To the amount of my vouchers.

Q. How much was that ?

A. Several thousand dollars.

Q. Did he decline ?

A. He did.

Q. Upon what grounds ?

A. He did not state his grounds.

Q. Did Mr. Dutton ever offer you those bonds ?

A. In the month of March, last, the early part, I came here and saw Mr. Dutton. I presented him a warrant for about \$7,000, for payment. He had not the money in his safe, and went to Lawrence, with me, to obtain it. We there saw Mr. Smith, Cashier of the Lawrence Bank, who remarked he could do nothing till he saw

the Governor. After seeing the Governor, Mr. Dutton called on me and asked me to take a draft, or note of Robert S. Stevens, on thirty days, which I refused. At a subsequent interview, he asked me to take \$5,000 in War Bonds. I asked him if he would pay the warrant I held on the treasury of the State of Kansas? He replied by repeating his interrogatory, "if I would accept the \$5,000 in War Bonds?" I answered by repeating my interrogatory again. He then replied, "If you will not receive the bonds, I will pay you in money."

Q. Did you refuse to take those bonds?

A. They were not offered to me only in the manner I have stated. I did not refuse them.

Q. Did you take those bonds?

A. He never offered me any bonds.

Q. Did you ever call for those bonds?

A. No, sir.

Q. Did you ever have any of those bonds in your possession?

A. I never saw one.

Q. Did you ever make any other offer for those bonds—that is in money?

A. No, sir—other than what I have stated in my direct examination, as made in the Governor's office on the third of July, last.

Q. Did you make a proposition?

A. None—other than that.

Q. At any time subsequently?

A. No, sir.

Q. Did you ever make a proposition to Mr. Carney to take them?

A. I stated to Mr. Carney that I would leave the bonds with him as security for the purchases I was making for the State.

Q. Was it a part of the contract with Mr. Carney, if you could not sell the bonds, that he should take them at certain rates?

A. Mr. Carney refused to give credit to the State, preferring to give credit on my own individual accounts. He refused to receive the bonds as security, preferring to leave them with me for sale, as I then had a prospect of selling them at par.

Q. What necessity was there to let Mr. Carney have them if you could get par for them?

A. It was necessary to have the goods at once for the Volunteers,

and if he would give credit to the State, I proposed to leave the bonds with him as security. He declined, and proposed to give me credit.

Q. Did the Governor not say, in any conversation, that he would use his influence to get the bonds for you?

A. No, sir. He had promised them, and spoke about my having them. It was not for some time that I knew Gov. Robinson had no control over them. I made a journey to Topeka to obtain them, and was told that the seal had not arrived to place upon them. I did not then know that the Governor had no control over them. I said nothing further to him after I found this out.

Q. When was it he promised you the bonds for sale?

A. In the early part of May.

Q. Do you remember Gov. Robinson calling on you, at any time, and asking where these bonds could be sold?

A. I do not. If he had done so I should have recollected it.

Q. Did you not tell George W. Smith he had called on you, and you refused to tell?

A. No, sir. I never told him anything of the kind.

Q. What did you tell him on that subject?

A. Nothing, sir.

EXAMINATION IN CHIEF RESUMED.

By Attorney General.—Did Dutton or Robinson ever ask you to whom these bonds could be sold?

A. Never, sir.

By Senator.—Could all the war bonds have been sold at par?

Witness.—Yes, sir.

Q. Was no arrangement of any kind ever made by you with Mr. Carney in reference to these war bonds?

A. Never.

Q. Did you never, while you were expecting to have the disposition of these bonds, have any understanding or talk with Mr. Carney as to what you would do with the bonds, with him, in case you got them into your possession?

A. Nothing further than what I have stated.

Q. At the time you made the offer to Dutton, on the third of July, what amount of money had you expended for the State?

A. Several thousand dollars.

Q. What time did you have your accounts audited?

A. On the 16th or 17th of last January.

Q. At what time did you first receive information from Mr. Stearns that the war bonds could be sold at par?

A. Some time in June, I think.

Q. On what day did you receive Mr. Stearns' letter telling you to send him the war bonds, and that he would take them at par?

A. I could not tell, without reference to his letter.

Q. Did any of the supplies, furnished by you to the State of Kansas, belong to any society East? If they did, or ever did, state what society, and what connection, if any, Mr. Stearns had with that society.

A. Mr. Stearns was chairman of the New England Kansas Relief Committee, of which, at that time, I was acting as agent. At the time of the call for volunteers, by the President, I had, stored, several hundred sacks of flour, belonging to that committee, which flour was made into bread for the volunteers, and charged at prices as named in bills audited by the Auditor, which bills have been paid and account rendered to the committee.

[H. R. DUTTON'S TESTIMONY.]

H. R. Dutton called and sworn on part of prosecution.

Q. At what time were the war bonds issued?

A. They were issued last June, and dated July first.

Q. What conversation, if any, did you have with Governor Robinson in relation to the sale of the bonds?

A. I asked him if it was necessary that nearly the amount mentioned in the bill, should be raised.

Q. Were those bonds signed by him?

A. They had his signature to them.

Q. What amount was signed?

A. Nearly \$40,000.

Q. What amount did he suggest should be sold?

A. I don't think he ever told me.

Q. Was he aware of the sale to Stevens?

A. Not at that time, that I know of.

Q. Did he know the price they were to be sold at, before the sale?

A. No, sir, not to my knowledge.

CROSS EXAMINATION BY DEFENSE.

Q. Do you remember the conversation between Gen. Collamore and the Governor, alluded to by Gen. Collamore?

A. I do. About that time.

Q. Will you state the conversation?

A. I met a gentleman at Lawrence, whom I afterwards found to be Gen. Collamore. I did not know him then, and told him so, when he spoke to me about the war bonds. He then introduced himself, telling me that Governor Robinson had promised him the bonds. I told him the Governor had no control over them. He said he would go up to Topeka and see the Governor. I came up in the stage, and Gen. Collamore arrived shortly after. I was in the Governor's office while he was there. During the conversation, he said the bonds could be sold at par. I did not pay much attention to this. I had heard others say the same thing. He asked me then to take a certain amount of scrip, and give him bonds which I declined. Afterwards, the Governor told me, as I was about to start East, that I had better leave the bonds for Gen. Collamore.

Q. At the time he proposed the scrip, did you know it was received for his account for the support of troops?

A. I did not know there were any such accounts.

Q. Did he explain that his accounts or scrip were for the subsistence of the troops?

A. I believe he did.

Q. Did you know those accounts were payable out of the war funds?

A. I presumed the accounts were so payable.

Q. Did he present his accounts to you?

A. Only his person.

Q. Did he make you an offer for the bonds?

A. No, sir, not to my recollection.

Q. Did he tell you to whom, or where they could be sold at par?

A. He said they could be sold at par.

Q. Did you ask him where or to whom they could be sold at par?

A. I did not. I did not believe they could be sold at par, and don't yet.

Q. Where did you leave the bonds for Mr. Collamore?

A. I left them here in my safe.

Q. Did you leave them with Mr. Hillyer?

A. No, sir.

Q. Did you promise to do so?

A. I never did.

Q. Did you inform him you had left them for him?

A. I do not recollect seeing him again till January last.

Q. Did you then offer him the bonds?

A. At the first time scrip was offered me, I offered him the bonds?

Q. Did he take them?

A. No, sir.

Q. Did he refuse to take them?

A. He evaded the question. I asked him "if he would take the bonds I had kept for him?" He replied, "will you pay my account." I asked him again, to which he replied as before. This I considered an evasion.

Q. Where are those bonds now?

A. In my safe.

Q. Could Gen. Collamore have had them at any time by presenting his scrip?

A. Yes, sir.

Q. You kept them there for that purpose, did you?

A. I did.

EXAMINATION IN CHIEF RESUMED.

Q. When did you offer them to Gen. Collamore?

A. Some time in March.

Q. Where?

A. In Lawrence.

Q. Where did you meet him?

A. Met him here.

Q. What was his business here?

A. To get his accounts paid, I suppose.

Q. Was it paid then?

A. It has been paid. Not that day.

Q. Where did you go with him?

A. Went to Lawrence.

Q. Did you offer him the bonds here?

A. No, sir.

Q. How long did you remain at Lawrence with him?

A. I was there two or three days.

Q. Did you offer him the bonds before you had the trouble about getting the money?

A. I offered him the bonds the next day after I got to Lawrence. The bankers told me they had not got the money.

Q. Did you have the bonds with you?

A. No, sir.

Q. Did you ever tender them to him?

A. I never handed them to him.

Q. Where were they?

A. In my safe.

Q. You say they are there yet?

A. They are there yet. I did not take them down with me, because I did not, nor never have supposed he wanted them.

By a Senator.—Where is the balance of \$9,000 of those war bonds?

A. In my safe.

Q. Have you any other bonds on hand now except those \$9,000?

A. No, sir.

[JOHN W. ROBINSON'S TESTIMONY.]

John W. Robinson called and sworn on part of the prosecution.

Q. What, if anything, do you know of Governor Robinson signing the war bonds?

A. I knew that he signed them.

Q. What amount?

A. My impression is that he signed the whole amount used—\$31,000. I don't know whether he signed the rest.

Q. Did you ever have any conversation with the Governor in regard to those bonds?

A. I do not know whether it was Mr. Dutton or Governor Robinson, who came to me for my signature. I went into Dutton's office and signed them.

Q. Do you remember any conversation with the Governor, about those bonds?

A. I don't remember anything about them, except the signing of them.

Q. Before you left Washington, what, if any arrangement was made by you, and the Governor and Mr. Hillyer, about the disposition of the seven per cent. bonds?

A. No real arrangement was made, as I have stated before; we had a conversation about them.

Q. Was anything said about selling the bonds to Mr. Stevens?

A. Mr. Stevens said he would purchase the bonds.

Q. What proposition did Stevens make at that time?

A. I do not remember that he made any proposition, but Mr. Hillyer and myself had an understanding that we could sell a portion at forty cents, and the remainder at seventy cents.

Q. Did he offer you, at any time, prior to your going to Washington, less than seventy cents?

A. I would not swear that he did.

Q. Did the Governor know, prior to your leaving for Washington, you would sell at sixty cents, if you could get no more?

A. The conversation alluded to was long before we went to Washington. When I came back, I heard that the Governor had said he thought we could not sell the bonds at all.

Q. Did you receive any written communication from him while in Washington?

A. We did not, to my knowledge.

Q. Was he aware that Stevens intended to purchase them?

A. I do not know that he knew.

Q. Prior to the sale in Washington, was the Governor aware of the transaction?

A. I cannot say that he was.

Q. Have you heard him say anything about it, since you came back?

A. I have heard him converse about it, several times since our arrival home.

Q. Did he, at any time, consent that they might be sold at less than seventy cents?

A. In no other way, but the one I have alluded to. As I said, I understood him as agreeing to any sale that we might make.

Q. Do you know if the Governor was interested with Mr. Stevens?

A. No, sir.

Q. Do you know of his receiving any emolument from Stevens, on the sale of those bonds?

A. No, sir, not a farthing, direct or indirect.

Q. Do you know of his intrusting the State bonds to Stevens?

A. Don't know anything about it.

Q. Did the Governor sanction the sale of the bonds after you returned?

A. I heard him say, "that as a matter of policy, that it was the best thing that could have been done, but that he had examined the law, and that he would not have sold less than seventy cents."

CROSS EXAMINED BY DEFENSE.

Q. You say, when you understood the Governor to say you could sell at less than seventy cents, the contract had failed?

A. There was no contract whatever.

Q. Did he say he had examined the law?

A. No, sir, he did not say anything about it.

Q. Was Hillyer present?

A. Yes, sir.

Q. Was any body else?

A. I think Mr. Stevens was in the room part of the time.

Q. You say the Governor could not have known of your proceedings in Washington, because you knew nothing of it yourself?

A. I never heard that Governor Robinson knew anything of it.

By a Senator.—Did the Governor say, or agree, that if sixty cents could be got for the bonds, they ought to be sold?

A. As I have said, the first conversation was a discussion as to the necessity of getting money into the State Treasury. No certain terms was mentioned. Some one broached the idea, that \$50,000 of the bonds could be sold at forty cents on the dollar.

By the President.—I will ask you the question that is in the report of the investigating committee, that is: Had the board authorized any one to sell the bonds prior to your going to Washington?

A. No, sir, I think they had not. Some suggestions were made, but they all fell through. Mr. Stevens made a proposition or offer, but I know not what it was. I wish to state, in regard to the answer to that question as printed in the pamphlet report of the in-

investigating committee, the answer is incorrect, and I requested them to allow me to correct it; they told me I should, but I was never afforded the opportunity.

CROSS EXAMINED BY DEFENSE.

Mr. Stanton.—Did you say you asked the committee to correct this answer or allow you to do so?

Witness.—Yes, sir, I did.

[GEORGE S. HILLYER'S TESTIMONY.]

George S. Hillyer called and sworn on the part of the State:

Attorney General.—Do you know anything of the Governor's signing the war bonds?

Witness.—Yes, sir, I know that his name was attached to them.

Q. Did you ever have any conversation with him in relation to them?

A. Never, not a word.

Q. Prior to your going to Washington, did you have any conversation with the Governor as to the price they should be sold at?

A. We had a conversation in the Governor's room, as stated in the Secretary's evidence.

Q. What was the substance of that conversation?

A. It was a general conversation in relation to the bonds.

Q. Was any price fixed to negotiate, and consented to by the Governor?

A. I think not. Our discussion was in relation to the general power of the board, and the limits at which we might sell.

Q. Did Governor Robinson know you were going to Washington to sell the bonds?

A. I do not know if he did or not.

Q. Did he assent to you and John W. Robinson going to sell them?

A. I don't recollect whether we had any direct conversation with the Governor about it. The Secretary did not know whether he would go to Washington or not, when he left Kansas.

Q. Was the Governor aware that Stevens was to purchase the bonds?

A. I don't know that he was.

Q. Have you heard him say he was aware Stevens would negotiate them?

A. I have had but little conversation with him. I reported the transaction when I came back, and the price sixty cents; he thought it was a good thing the bonds were sold, but very little was said.

Q. Did he ever express any dissent or assent to the transaction?

A. No, sir, neither assent nor dissent.

Q. Were you present at the time of the conversation alluded to by Secretary Robinson?

A. Yes, sir.

Q. Did he assent then as to the price?

A. I don't know that there was any price mentioned. If anything was said about the price, I have forgotten. Nothing resulted from that conversation.

CROSS EXAMINED BY DEFENSE.

Q. Did you understand the Governor to assent or dissent to the sale of 50,000, without limit?

A. He said something about examining the law, but did not make any other remark.

Q. Did he say he would examine, or had examined the law?

A. He said he was not posted, and so expressed himself.

Q. He did not assent, then, to your opinion as to the price?

A. I think not.

Q. When you went to Washington, did you expect to get seventy cents?

A. I expected to, if I sold at all.

Q. During your stay in Washington, did you correspond with the Governor?

A. I think I wrote him two or three letters.

Q. Did he ever advise you while in Washington, in regard to the sale?

A. I never got a letter from him.

Q. Then he could not assent to your sale at sixty cents?

A. I never mentioned to him the price of the bonds, but merely mentioned, I was making efforts to sell, and hoped to succeed.

Prosecution here rested their case.

[R. S. STEVENS' TESTIMONY.]

Senator R. S. Stevens called and sworn on part of the defense.

Q. Will you state if you ever applied to Governor Robinson for

these bonds, and if he ever consented to sell them for less than seventy cents?

A. I did, sir. As I stated in my evidence a few days since, the Auditor and Secretary were of the opinion that 50,000 of the bonds could be sold for less than seventy cents on the dollar. They gave me a statement, signed by themselves, offering to sell that amount at forty cents. Some time subsequently, I offered the paper to the Governor to sign, which he declined doing.

Q. Did he give his reasons for not signing?

A. He said he had examined the law, and did not think it gave authority for the sale, at that price?

Q. What did you do with that paper?

A. I destroyed it.

Q. Was you in the Governor's room during the conversation alluded to heretofore?

A. I was in the Governor's office once or twice, but did not hear any of the conversation.

Defense rested their case.

George S. Hillyer recalled.

By a Senator.—Why does not the amount received for the bonds, show the same in the Auditor's report?

A. The reason was, the money had not then come into the Treasury, and I expected to make another report in relation to the sale of the bonds.

Hon. Davies Wilson announced on behalf of the Board of Managers, that in their opinion, that this case presented features different from that in the other cases, that it would be his duty to present an argument in relation to those points, which duty has devolved upon me rather unexpectedly; if the Senate will adjourn till 7 o'clock, he would then endeavor to present the case to them in behalf of the House of Representatives.

On motion of Mr. Ingalls, took a recess till 7 o'clock in the evening.

EVENING SESSION.

The hour of seven having arrived, the Senate was called to order.

[ARGUMENT OF DAVIES WILSON.]

Hon. Davies Wilson, in opening the arguments on the part of the prosecution, said :

MR. PRESIDENT AND GENTLEMEN OF THE HIGH COURT OF IMPEACHMENT :

In appearing before you, surrounded by so brilliant an assembly, and in presence of this array of distinguished counsel, I feel my want of skill worthy the dignity and gravity of the occasion. So long have we been occupied by the details of these trials, that we may have lost a full appreciation of the weighty import of these matters, and by familiarity with the proceedings, we may forget how much they concern the accused, and ourselves and the people of the State. Well might I hesitate, therefore, recalling these things, were it not for the remembrance that I am here to defend the honor, and guard the welfare of the State. If it be true of any one, it certainly cannot be laid to me that there exist any hidden or unworthy motives, to act or to speak. While I have no party jealousy to gratify, no personal revenge to wreak, no petty malice to indulge—so I have no favors granted or sought to bid me pause.

Who is the respondent? The Governor of the State; the most exalted personage known to our laws—the head and front of our body politic. Nay! were it possible, he is more than that—Charles Robinson. He it is, who in the night of our history, was like a full, bright moon, cool and clear, illuminating our darkness by his wisdom, and if he emerge from this eclipse without spot or loss, well may we all rejoice, and no one more than I. He who but a short time ago defended and guided this people, and whom that people, in the fulness of their gratitude, invested with the purple of supreme authority and granted the scepter of their power, is here arraigned by that same people to answer the charges of high misdemeanor in office, of prostituting that authority, and abusing that power.

No citizen of the State can feel more kneeily than I do, how much

of shame that would bring to the people, were not honor and justice to be vindicated by the prompt punishment of the offender, even though he be Charles Robinson—Governor. As Brutus sternly preserved the honor of his name, though by the sacrifice of his own son on the altar of justice, so the people of Kansas, would merit anew the high laudation of their friend, now the chief in the national councils, as the most virtuous people, by surpassing, if need be, even Brutus. Precious as may be our tried friends and trusted leaders, yet more precious should be purity and integrity. And when, in these venal days, is given us the privilege of proving our allegiance to virtue, and honor and truth, even at so great a price, let us be bold to set an illustrious example, and declare that here at least, there are none so exalted, none so protected from process of law, none so powerful as to do wrong, yet fear no penalty.

I do not propose to speak to you at any length of the charges, the law or the evidence in the case. My colleague is far more able to present the argument to you than I am, and my strength will not enable me to do more than to state the main points very briefly.

The first article recites the illegal signing of what are termed "War Bonds," to the amount of fifty thousand dollars. The remaining four articles charge complicity with the illegal sale of the seven per cent. bonds, in various ways, all which are included in the charge of conspiracy. I frankly admit that no evidence has been elicited sustaining any of the charges of such complicity, except so far as various circumstances seem to point to the conspiracy charged. It need excite no surprise that such a conspiracy cannot be positively established; for the only witnesses to that charge, are they who themselves are charged as fellow-conspirators. Nor is it absolutely necessary to have such proof, for it is permitted to draw an inference of conspiracy from acts and circumstances. Those acts and circumstances have been so fully discussed, not only in the arguments in the preceding cases, but among yourselves, that I will not undertake to repeat them.

The first charge, however, presents a new phase in this case, different from its corresponding charges in the case of the Secretary of State, or in that of the Auditor.

The law authorizing the issuance of "War Bonds," provides, in the first section, for borrowing twenty thousand dollars and no more; next for the preparation of bonds to the amount of the loan, and no more; and then for the execution, or signing of those bonds

by the Governor and Treasurer. The Secretary is required to countersign these bonds, and the Auditor to register them; but it has been claimed that these are merely "ministerial" acts. Were it indeed true, in such a sense, that neither the Auditor nor the Secretary could be held to any liability for the over-issue, yet the responsibility of the Governor is greater, and his act is far more important. He it is who, by signing these bonds, binds the State. Without his act, these bonds could never exist; and if the acts required of the Auditor and Secretary are merely "ministerial" and not discretionary, if they could be compelled by order of court, to register and countersign as many bonds as the Treasurer and Governor saw proper to prepare and execute, as counsel have asserted, surely the Treasurer and Governor act in no such capacity, and must be held responsible for any illegal or fraudulent issue. The Governor, as well as the Treasurer, becomes the agent of the State in the matter, and hence responsible to the State, for what he has done.

I regret that I was unable to hear the able argument of the distinguished gentleman who, in considering this question, quoted an act of Congress, similar to the statute now under consideration, and claimed that it should be a precedent for the construction of our statute. I remember, however, that the law of Congress requires a report to be made of the "rate" at which the sales may be effected, clearly contemplating and providing for "rates." But no part of our statute contemplates any rate of discount whatever. Nor was it provided that these bonds should be discounted. Even the Governor himself, in a message to the House of Representatives, at the same session at which the bill passed, speaks of "the debt of \$20,000" which the law creates—not of "the debt of \$40,000." The inference is clear that this issue was not only illegal, but that the Governor so regarded it.

Not only is the act of the Governor illegal, and one that he knew to be illegal, and one for which he must be accountable, but it is an act of great injury to the State. For consider that the people are compelled to redeem these bonds in two years, and pay ten per cent. interest annually upon them, that thus they must be taxed eighteen thousand six hundred dollars each year—to be paid not in warrants, or scrip or labor, but in hard coin; and that the benefit to them is merely the pleasure of using twelve thousand six hundred dollars a few weeks sooner than it could be collected by taxation, and you will appreciate the nature of the transaction, and the great wrong

done to the State. Every drop of sweat that falls from the brow of the laborer in your fields, gleams with the hard earned money that is wrung from his scanty treasures, by this violation of law. Every field has a row of grain to be sold to pay the tax that is created by this high misdemeanor.

Thus, Senators, at the bidding of the House of Representatives, and on behalf of the people in whose name they act, I have laid this case before you. Once wronged, Kansas found a champion on every loyal hearthstone, and the gifted and learned Cicero of the United States Senate, did not hesitate to defend her at the peril of his life,—but now this new “crime against Kansas” is perpetrated, not, as heretofore, by armed enemies from beyond her borders, but by her own favored, honored and trusted children, and the mantle of her championship has fallen upon shoulders as humble as mine. In her name, Senators of Kansas, I appear before you; in her name I impeach her Governor of high misdemeanors in office, and I call upon you, by the love and filial piety you owe the State of your adoption, which has confidingly placed her honor in your hands, to vindicate and defend her.

For more than five hundred years, the process of impeachment has been the constitutional defense of our Anglo Saxon race, against official usurpation and corruption. The annals of those five centuries of English history, contain many a record of the trials of men high in office, for infidelity to their trusts. Nor is the history of our own nation, nor that of the several states wanting in such examples. Before this most august of tribunals, the unjust judge, the faithless chancellor, the corrupt minister and secretary, and the oppressive Governor, have been summoned, and there are but few records of darker deeds than their trials unfold. Extortion, bribery, theft, tyranny and treason, have been there exposed; but vain would be the search among the annals of crime, whose magnitude has made them historic, for a precedent to this.

Perhaps the most memorable impeachment, is that to which reference has already been made more than once before you; that of the Governor of a great State, a trial, the causes and incidents of which, have been delineated by the pen of the historian and poet, the voice of the orator and the pencil of the artist. Just seventy-five years ago, Warren Hastings was impeached by the House of Commons for plundering the Indies, of which he had been Governor. His guilt is unquestioned; yet how is his offense

extenuated by comparison with that of which your Governor now stands accused ! Warren Hastings, appointed by an English company, ruled over a people to whom he owed neither gratitude nor allegiance, and whom, as an Englishman, he regarded his inferiors in rights and in blood. Your Governor was the elect of the people, their servant and not their ruler ; they in all respects his equals, and he owing them both gratitude and allegiance. The Indians were a conquered people, had already been oppressed by native despots, and had few aspirations for independence. The people of Kansas were American citizens, they had secured their long endangered independence, and had vindicated their manhood, and their Governor was chosen to sustain and protect them. What Hastings sent to England, he took chiefly from the wealthiest of his subjects. Your Governor robbed the poorest of his fellow-citizens. Hastings extorted millions, boldly and greatly. Your Governor stole thousands secretly and meanly. Hastings robbed his subjects for the benefit of his masters. Your Governor defrauded his masters, for the benefit of a few unknown speculators.

But the circumstances of the people of Kansas added new infamy to the crime. Here was the battle field between Slavery and Freedom on this continent. Freedom summoned the men who loved Justice more than Riches, and Right more than Honors. For her sake they came, sacrificing social position, home, wealth and refinement, to wage a four years' war against enemies in the field and in cabinet. Insult, robbery and murder vainly strove to intimidate them; the bribes of Peace and Wealth, especially alluring to a people contending against odds, and weighed down by poverty, were offered only to be spurned. At last they triumphed, and a new star, (never star more steadfast,) shone in our National Heavens. There stood Kansas, like a dowerless maiden—Freedom her sole birthright, Fidelity her single Jewel. Cheerfully she assumed the burdens and responsibilities of a State Government she was ill able to bear ; asking only from those who sought to administer it, that that they should be true to Liberty.

Thus honored and trusted by a gallant, but hitherto unfortunate State, these officers might have protected, if they could not enrich her; to respect, if they could not give her power; and the gratitude of a magnanimous people would have added its rewards, to that of unsullied honor. They chose to betray the people by whom they had been trusted, to dishonor the cause which had honored

them, and verily they have their reward. "The crime of Judah is written with a pen of iron and with the point of a diamond."

I need not to multiply reasons for the conviction of the respondent. Your oath demands it, for you have sworn "that in all things pertaining to this trial you will do impartial justice, according to the law and the evidence." State pride demands it, that Kansas, so lately the favorite of the nation, become not a by-word of reproach and contempt. Your prosperity demands it, that the burden of taxation be not hurled prematurely and wrongfully upon our young State, banishing the thrifeful emigrant from her soil, yet denying the comforts that taxation should purchase. Freedom demands it, that her devotees be not branded as the accomplices of fraud. Morality demands it, that the coming generation be not corrupted by the example of great public crime, prosperous and unrebuked.

Not only does Kansas await your verdict: the nation awaits it, still hesitating to pronounce her last born worthy of her love. Europe itself, will take up your decision, and if it be unmerited "*acquittal*," will brand with it Democracy, thus characterized by a people who have boasted to defend it.

Citizens—Senators—Men!—I leave the verdict to you.

Hon. Wilson Shannon replied for the defense:

MR. PRESIDENT AND GENTLEMEN OF THE SENATE:

I do not arise, at this late hour, to weary you with an argument. I doubt not that every member of this honorable body, as well as the counsel, are gratified that these proceedings are drawing to a close. In behalf of our client, we can do no more than refer to the arguments already advanced. I do not know that my honorable colleague or myself can add to the arguments already advanced, or say one word to enhance the the weighty reasons which have been presented to you during the progress of this case; neither do I think, by such endeavor, that we could affect the decision which, in your minds, you have already arrived at.

No claim has been made of complicity, on the part of Governor Robinson, with the sale of the seven per cent. bonds. The good sense of my eloquent friend, to whom we have just listened, has not claimed any such complicity. All the testimony proves that the Governor was not engaged in the transaction. These facts are sufficient to warrant my not making more than an illusion to that subject.

This body has already decided, in relation to the signing of the war bonds, that it was the duty of the State Treasurer to issue, and the Governor and Secretary only signed them. This signing is held not to be a misdemeanor, by the decision you have made in the case of the Secretary. That decision was a just one. To it there was not a dissenting voice in this honorable body. Each of these gentlemen signed the war bonds, in the discharge of their official duty. If this was a misdemeanor on the part of the Governor, it was equally so on the part of the Secretary. This you have settled in the negative, and you can do no less or more in the case now before you.

We do not, therefore, propose to argue the case further, but rest the defense here, confident that Governor Robinson will, by your verdict, be sent forth blameless of wrong-doing to the State.

Attorney General rose and closed :

MAY IT PLEASE THE COURT :

I should not say one word in closing, at this late hour, and after the able argument of the gentleman who opened the case in behalf of the Board of Managers, were it not that it might be considered an abandonment of the case. The evidence is before you. The arguments of counsel have brought forth the hidden subtleties of the law that bear upon the case. Nothing that we can say further will add or take away. It rests with you. All the House of Representatives ask of you is that you remember the solemn responsibilities that rest in your decision. The future of the State lies in your hands. We leave the case of Charles Robinson, Governor of Kansas, in the hands of the Senate, confident that their verdict will render justice between the State and this defendant.

On motion of Mr. Cobb, the same order was adopted in the case of Charles Robinson, as was observed in the previous cases.

The President then proceeded to take the opinion of the Court in the following form :

Mr. —, how say you? Is the respondent, Charles Robinson, Guilty of High Misdemeanor, as charged in the first Article of Impeachment?

The following gentlemen voted GUILTY in response to the Chair: Messrs. Curtis and Lambdin.—2.

Those gentlemen voting NOT GUILTY were Messrs. Barnett, Bay-

less, Cobb, Connell, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—19.

When Mr. Stevens' name was called, he arose in his place and said:

MR. PRESIDENT :—For the same reasons as before stated, I again ask to be excused from voting.

Whereupon, he was excused.

Whereupon, the President declared that two Senators having voted GUILTY and nineteen NOT GUILTY, Charles Robinson, Governor, is acquitted, by the Senate of the State of Kansas, of the charges as contained in the first Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the second Article of Impeachment, and the President proceeded to take the opinion of the Court in the preceding form.

All the Senators pronounced NOT GUILTY on this Article, viz : Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—21.

Whereupon, the President declared that no Senator having voted GUILTY and twenty-one NOT GUILTY, Charles Robinson, Governor, is acquitted, by the Senate of the State of Kansas, of the charges as contained in the second Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the third Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

All the members pronounced NOT GUILTY on this Article, viz : Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—21.

Whereupon, the President declared that no Senator having voted GUILTY and twenty-one NOT GUILTY, Charles Robinson, Governor,

is acquitted, by the Senate of the State of Kansas, of the charges as contained in the third Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the fourth Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

All the Senators pronounced NOT GUILTY on this Article, viz: Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Essick, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—21.

Whereupon, the President declared that no Senator having voted GUILTY and twenty-one NOT GUILTY, Charles Robinson, Governor, is acquitted, by the Senate of the State of Kansas, of the charges as contained in the fourth Article of Impeachment, exhibited against him by the House of Representatives.

The Secretary then read the fifth Article of Impeachment, and the President proceeded to take the opinion of the Court in the previous form.

Mr. Essick voted GUILTY.

The following gentlemen voted NOT GUILTY: Messrs. Barnett, Bayless, Cobb, Connell, Curtis, Denman, Holliday, Hubbard, Ingalls, Keeler, Knowles, Lambdin, Lappin, McDowell, Rankin, Rees, Roberts, Sleeper, Spriggs and Mr. President.—20.

Whereupon, the President declared that one Senator having voted GUILTY and twenty NOT GUILTY, Charles Robinson, Governor, is acquitted, by the Senate of the State of Kansas, of the charges as contained in the fifth Article of Impeachment, exhibited against him by the House of Representatives.

The President then rose and recapitulated the votes thus:

On the first Article, two gentlemen have pronounced Guilty and nineteen Not Guilty; on the second Article, there is an unanimous vote of Not Guilty; on the third Article, there is an unanimous vote of Not Guilty; on the fourth Article, there is an unanimous vote of Not Guilty; on the fifth, one has said Guilty and twenty Not Guilty; hence it appears that there is not a constitu-

tional majority of votes finding Charles Robinson Guilty on any one Article. It, therefore, becomes my duty to declare that Charles Robinson stands Acquitted of all the Articles exhibited by the House of Representatives against him.

Mr. Cobb offered the following order, which was adopted :

MR. PRESIDENT :—I move you that a committee of three be appointed to notify his Excellency, the Governor, of the final action of the Court of Impeachment, in the cases of the State against John W. Robinson, Secretary, George S. Hillyer, Auditor, and Charles Robinson, Governor.

Whereupon, the Chair appointed Messrs. Cobb, Rankin and Curtis, said committee.

On motion of Mr. Ingalls, the following resolution was adopted :

Resolved, That five hundred copies of the proceedings in the cases of impeachment of John W. Robinson, Secretary of State, George S. Hillyer, Auditor of State, and Charles Robinson, Governor, including the preliminary proceedings in the House of Representatives and Senate, together with the journal and official report of the arguments and debates, be printed and bound in leather for distribution as follows: Three copies to each member of the Senate, and one to each officer thereof; one copy to each of the Managers and counsel; one copy to each member and officer of the last House of Representatives; the remainder to be distributed according to the three first provisions of the second section of chapter forty-eight of the laws of 1861.

Mr. Connell offered the following resolution :

Resolved, That the Hon. ———, be appointed to superintend the printing and binding of the proceedings of this Court of Impeachment, (as set forth in a former resolution adopted by this body.) For which service he shall receive the sum of ——— dollars for every day thus necessarily employed. And the Auditor of State shall draw his warrant upon the Treasury for the amount of his services, properly authenticated by affidavit.

Mr. Stevens offered to amend by inserting in the first blank, the name of J. J. Ingalls, and in the second blank the sum of five dollars.

Amendment accepted, and the resolution was adopted.

On motion of Mr. Rees, the Senate took a recess of half an hour.

The time having expired, the Senate was called to order.

Mr. Stevens offered the following resolution which was adopted :

Resolved, That the Secretary of the Senate be directed to transcribe the Journal of the proceedings of the Senate, sitting as a High Court of Impeachment, in a book to be provided for that purpose, to be deposited in the office of the Secretary of State, and that for such service he be allowed the same price per folio, as is allowed by law for transcribing the Journal of the proceedings of the Senate at its regular sessions.

On motion of Mr. Stevens, the following resolution was adopted :

Resolved, That all depositions, exhibits, and instruments in writing, offered in evidence on the trial of John W. Robinson, George S. Hillyer and Charles Robinson, or either of them, by either party, be deposited by the Secretary of the Senate, in the office of the Secretary of State, to be by him preserved as are other records.

On motion of Mr. Stevens, the following resolution was adopted :

Resolved, That the pay of the Reporter and Assistant Reporter, shall not extend more than twenty days after the adjournment of the Senate.

Mr. Ingalls offered the following resolution, which was adopted :

Resolved, That the thanks of the Senate are hereby extended to the Hon. T. A. Osborn, for the distinguished ability, uniform courtesy, and strict impartiality, with which he has performed the delicate and arduous duties of President of this body at its present session.

Mr. Cobb, chairman of the committee appointed to inform the Governor of the proceedings of the Court of Impeachment, submitted the following report :

MR. PRESIDENT : Your committee who were charged with the duty of presenting the official transcripts of the records of the Court of Impeachment, so far as relates to the final orders of the same in the cases of the State against John W. Robinson, Secretary of State ; George S. Hillyer, Auditor, and Charles Robinson, Governor ; to his Excellency the Governor, would report that they have performed their duty in that behalf, by presenting the same to him, in his office at Topeka, this 16th day of June, A. D. 1862.

Mr. Cobb, chairman of committee to audit claims of witnesses, submitted the following report :

MR. PRESIDENT :—Your committee on claims of witnesses, report that they have audited the following accounts :

John Francis,	- - - - -	\$ 21,00
S. Kimball,	- - - - -	7,50
J. Humphreys,	- - - - -	18,00
Geo. A. Hunt,	- - - - -	7,00
Oliver Paul,	- - - - -	7,00
S. C. Smith,	- - - - -	8,00
F. Kimball,	- - - - -	7,00
F. Kimball,	- - - - -	7,00
L. Allen,	- - - - -	8,00
E. P. Kellam,	- - - - -	8,00
Dr. Deming,	- - - - -	8,00
Loring Farnsworth.	- - - - -	8,00
		<u> </u>
		\$114,00

On motion of Mr. Ingalls, the committee appointed to audit the claims of witnesses, and the committee appointed to inform the Governor of the proceedings in the Court of Impeachment, were discharged.

On motion, the Senate of the State of Kansas, sitting as a High Court of Impeachment, adjourned without day.

E R R A T A . •

Page 309, seventh line from foot of page, for "army" read "array."

Page 318, eighteenth line from top of page, for "bar" read "law."

Page 319, thirteenth line from foot of page, for "competent" read "compelled."

5.5.1

MAY 29 1947



